



**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**ENDORSEMENT**

**COURT FILE NO.:**

**DATE: February 28, 2024**

**NO. ON LIST: 1 (4:30pm)**

**TITLE OF PROCEEDING:**

**IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BZAM LTD., BZAM HOLDINGS INC., BZAM MANAGEMENT INC., BZAM CANNABIS CORP., FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH ROAD HOLDING CORP., AND FINAL BELL CORP.**

**BEFORE: JUSTICE OSBORNE**

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant:**

<b>Name of Person Appearing</b>	<b>Name of Party</b>	<b>Contact Info</b>
ZWEIG, SEAN SHAKRA, MIKE FROH, ANDREW ERNST, JAMIE	BZAM LTD., BZAM HOLDINGS INC., BZAM MANAGEMENT INC., BZAM CANNABIS CORP., FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH ROAD HOLDING CORP. FINAL BELL CORP.	<a href="mailto:zweigs@bennettjones.com">zweigs@bennettjones.com</a> <a href="mailto:shakram@bennettjones.com">shakram@bennettjones.com</a> <a href="mailto:froha@bennettjones.com">froha@bennettjones.com</a> <a href="mailto:ernstj@bennettjones.com">ernstj@bennettjones.com</a>

**For Plaintiff, Respondent:**

Name of Person Appearing	Name of Party	Contact Info
CHAITON, HARVEY	STONE PINE CAPITAL	<a href="mailto:Harvey@chaitons.com">Harvey@chaitons.com</a>
BELLISSIMO, JOSEPH LEVINE, NATALIE	CORTLAND CREDIT LENDING CORPORATION	<a href="mailto:jbellissimo@cassels.com">jbellissimo@cassels.com</a> <a href="mailto:nlevine@cassels.com">nlevine@cassels.com</a>

**For Other, Self-Represented:**

Name of Person Appearing	Name of Party	Contact Info
YANG, PHILIP KONYUKHOVA, MARIA ROSENBERG, JEFF HAMIDI, KAMRAN	FTI AS PROPOSED MONITOR	<a href="mailto:pyang@stikeman.com">pyang@stikeman.com</a> <a href="mailto:mkonyukhova@stikeman.com">mkonyukhova@stikeman.com</a> <a href="mailto:Jeffrey.rosenberg@fticonsulting.com">Jeffrey.rosenberg@fticonsulting.com</a> <a href="mailto:Kamran.hamidi@fticonsulting.com">Kamran.hamidi@fticonsulting.com</a>

---

**ENDORSEMENT OF JUSTICE OSBORNE:**

1. This is an Application for relief under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36 (the "CCAA") by BZAM Ltd. ("BZAM"), BZAM Holdings Inc., BZAM Management Inc., BZAM Cannabis Corp., Folium Life Science Inc., 102172093 Saskatchewan Ltd., The Green Organic Dutchman Ltd. ("TGOD"), Medican Organic Inc. , High Road Holding Corp., and Final Bell Corp. (collectively, the "Applicants" or the "Companies").
2. Following the hearing, I granted the initial order with reasons to follow. These are those reasons.
3. In particular, the Applicants seek:
  - a. a declaration that they are companies to which the CCAA applies;
  - b. the appointment of FTI Consulting Canada Inc. ("FTI") as Monitor;
  - c. the approval for TGOD to borrow up to a principal amount of \$2,400,000 by way of a debtor-in-possession ("DIP") credit facility (the "DIP Loan") to finance critical working capital requirements for the Applicants over the next 10 days;
  - d. a stay in effect for an initial period of not more than 10 days;
  - e. the extension of the benefit of the stay to the Non-Applicant Stay Parties (as defined in the materials) and their respective directors and officers;
  - f. relief from certain securities reporting obligations until further order of this Court; and

g. approval of the Administration Charge, the DIP Lender's Charge, the Edmonton Property Charge and the Directors' Charge (each as defined in the motion materials) in the priorities as set out in the motion materials.

4. BZAM is the ultimate parent company to several entities in the cannabis industry in Canada (collectively, the "Company"). It is a reporting issuer listed on the Canadian Securities Exchange, and its shares trade in the United States on the OTCQX.
5. The Company engages in the production, cultivation, processing and distribution of cannabis and cannabis related products.
6. The Applicants are insolvent. One of their cannabis licences is set to expire imminently. Absent protection under the CCAA, as well as access to the proposed DIP financing, the Applicants lack sufficient cash to meet their obligations as they come due, their liabilities exceed the value of their assets, and they will be forced to immediately cease operations.
7. The Applicants seek protection from their creditors while they continue as a going concern to allow time to explore various restructuring options and possibilities for the benefit of stakeholders. Those options will likely include, it is submitted, a Court-supervised sale and investor solicitation process ("SISP").
8. The relief sought by the Applicants today is fully supported by the senior secured creditor, the subordinate creditor, and is recommended by the Proposed Monitor. The Applicants submit that it is also limited to what is reasonably necessary to allow them to maintain the status quo and continue operations during the initial 10 day stay of proceedings.
9. With this context in mind, the issues on this Application are:
  - a. does the Court have jurisdiction to grant the relief requested under the CCAA and should a stay of proceedings be granted?
  - b. should the Court approve the DIP Loan?
  - c. should FTI be appointed as Monitor?
  - d. should the benefit of the stay be extended to the Non-Applicant Stay Parties?
  - e. should relief from the securities reporting obligation be granted? and
  - f. should the Charges be approved, and approved in the proposed priority?

### **Jurisdiction**

10. The Applicants rely on the Affidavit of Matthew Milich sworn February 28, 2024 together with the exhibits thereto, and the Pre-filing Report of the Proposed Monitor dated February 28, 2024. Defined terms in this Endorsement have the meaning given to them in the Application materials unless otherwise indicated.
11. Each of the Applicants is incorporated under Canadian corporate statute. All of the non-BZAM Applicants are wholly-owned, directly or indirectly, by BZAM except for Folium Life and BZAM Cannabis, in respect of which BZAM Holdings is the majority shareholder as to 80% and 80.3%, respectively.
12. Five of the Applicants are licenced with Health Canada and operate cannabis facilities in Ontario, Alberta and British Columbia. 102 Saskatchewan leases a retail store in Saskatchewan.

13. The majority of the Company's business is conducted out of Ontario. Two cannabis facilities of the Applicants, including its largest facility, are located in Ontario and approximately 256 of the 441 employees of the Applicants are employed in Ontario.
14. The Company's senior secured creditor, Cortland Credit Lending Corp. ("Cortland") is also headquartered in Toronto.
15. The majority of BZAM's directors reside in Ontario, and its Chief Financial Officer and Chief Executive Officer divide their time between the Company's offices in Ontario and British Columbia.
16. The Non-Applicant Stay Parties include four directly or indirectly wholly-owned subsidiaries of BZAM: 9430-6347 Québec Inc. ("943 Québec"), a company incorporated under the QBCA; (ii) The Green Organic Beverage Corp. ("Green Organic"), a company based in Delaware; (iii) TGOD Europe B.V. ("TGOD Europe"), a company based in the Netherlands; and (iv) The Green Organic Dutchman Germany GmbH ("TGOD Germany"), a company based in Germany.
17. 943 Québec is a licensed entity with Health Canada operating out of a leased facility in Québec.
18. The evidence satisfies me that the Applicants are unable to meet their obligations as they become due. They have accrued payables in the ordinary course of business that they cannot meet and are unable to pay amounts owed to secured parties.
19. As at January 1, 2024, the Company had total consolidated assets with a book value of approximately \$95,711,080 and liabilities with a book value of approximately \$112,873,839. The Applicants anticipate having on hand only approximately \$1,848,000 in cash at the close of business today, with the result that they face an urgent liquidity crisis.
20. Secured financing has been provided by Cortland pursuant to a credit agreement entered into on March 31, 2020 between Cortland as Agent for the Lenders and TGOD as borrower. It has been amended and restated including as recently as January 8, 2024 (as amended, the "Credit Agreement").
21. Pursuant to the Credit Agreement, Cortland provided TGOD with an interest-bearing revolving credit facility totaling \$34 million. The guarantors under the Credit Agreement are TGOD, BZAM, Medican Organic, BZAM Holdings, BZAM Management, BZAM Cannabis, Folium Life, High Road and BZAM Labs (together, in such capacity, the "Cortland Obligor").
22. As of February 28, 2024, approximately \$31,919,208.84 of principal is owing together with interest of an additional \$362,916.21.
23. In addition, BZAM has entered into six (6) promissory notes (the "Stone Pine Promissory Notes") with Stone Pine Capital Ltd. ("Stone Pine"), an entity controlled by BZAM's largest shareholder and current Chairman. The Stone Pine Promissory Notes were all amended on January 4, 2024, to each be payable upon demand, provided that Stone Pine shall not be permitted to make a demand until the later of either: (i) the maturity date of the Cortland Credit Agreement; and (ii) March 31, 2025.
24. Contemporaneously with the execution of the Stone Pine Promissory Notes, BZAM and Stone Pine entered into general security agreements (the "Stone Pine GSAs") under which Stone Pine was granted security over all present and after-acquired property, assets and undertakings of BZAM. Additionally, BZAM, Stone Pine and Cortland entered into subordination and postponement agreements to subordinate the amounts loaned under the Stone Pine Promissory Notes to the amounts loaned under the Credit Agreement with Cortland.
25. As of February 28, 2024, approximately \$8,515,000 of principal is owing to Stone Pine, and approximately an additional \$509,755 of interest accrued month-to-date for a total amount owing of

with interest being calculated monthly and payable on the last day of each month. No interest has ever been paid on the Stone Pine Promissory Notes.

26. BZAM Cannabis entered into a \$5 million loan from for private lenders that is secured against the Edmonton Facility pursuant to a commitment letter dated May 19, 2021 as well as a general security agreement over all of the property of BZAM Cannabis and a corporate guarantee from BZAM Management.
27. In addition to the above, the Applicants have a number of unsecured obligations including a promissory note issued by BZAM to Final Bell Holdings International Inc. dated January 5, 2024 in the amount of \$8 million and employee liabilities including monthly aggregate payroll obligations of approximately \$2,344,764 related to both salaried and hourly employees. The Applicants also owe \$1,103,860 and accrued and unpaid vacation pay and another \$702,000 in unpaid bonuses.
28. The Applicants had accounts payable and accrued liabilities as at January 31, 2024 of approximately \$28,211,004, and CRA liabilities as at February 15, 2024 of approximately \$4,440,000 in excise tax arrears, \$2,650,000 in sales tax arrears, and a modest amount in respect of unremitted payroll deductions. BZAM Management and TGOD have entered into payment plans with the CRA in respect of their excise and/or sales tax arrears.
29. It is clear that the current cash position of the Applicants is not sufficient to meet their obligations as they come due, particularly relating to ongoing and future payroll obligations and the cash required to maintain business operations while preventing the expiry of valuable (and required) cannabis licences.
30. The CCAA applies in respect of a “debtor company or affiliated debtor companies” whose liabilities exceed \$5 million. The term “debtor company” is defined as “any company that: (a) is bankrupt or insolvent [...]”, and the term “company” is defined as “any company, corporation or legal person incorporated by or under an Act of Parliament or of the legislature of a province [...]”.
31. The CCAA also specifies companies are affiliated companies if one of them is the subsidiary of the other or both are subsidiaries of the same company. Each of the Applicants is a “company” within the meaning of the CCAA as each was incorporated under Canadian provincial or federal laws. All of the Applicants other than BZAM are direct or indirect subsidiaries of BZAM. Accordingly, the Applicants are all affiliated companies.
32. Each of the Applicants is a “debtor company” as defined in the CCAA. The insolvency of a debtor company is assessed as of the time of filing the CCAA application. Courts have taken guidance from the definition of “insolvent person” in subsection 2(1) of the *Bankruptcy and Insolvency Act*, which, in relevant part, provides that an “insolvent person” is a person:
  - a. who is for any reason unable to meet his obligations as they generally become due;
  - b. who has ceased paying his current obligations in the ordinary course of business as they generally become due; or
  - c. the aggregate of whose property is not, at a fair valuation, sufficient, or if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due.
33. A company is also insolvent for the purposes of the CCAA “if it is reasonably expected to run out of liquidity within reasonable proximity of time as compared with the time reasonably required to implement a restructuring”.

37. The Applicants collectively have over \$55,000,000 in debt and only approximately \$1,070,000 of cash on hand. Absent the Stay of Proceedings and the approval of the DIP Loan, the Applicants will be unable to meet their obligations as they come due. As such, the Applicants are affiliated debtor companies to which the CCAA applies.

35. I am also satisfied that Ontario is the chief place of business of the Applicants, and as such this Application is properly made to this Court.

36. Section 9(1) of the CCAA provides that an application for a stay under the CCAA may be made to the court that has jurisdiction in the province in which the head office or chief place of business of the company in Canada is situated.

37. In *Nordstrom Canada Retail, Inc.*, this Court found that the company's "chief place of business" was Ontario despite the fact that Nordstrom Canada Retail was incorporated and had significant business operations in British Columbia. In determining whether the court had jurisdiction over the proceedings, this Court considered multiple factors, including the location of the company's assets, employees and sales.

38. The Court found that there was sufficient evidence establishing Ontario as the proper jurisdiction based on the following: 8 of the 13 Nordstrom Canada retail stores are located in Ontario, while approximately 1,450 out of Nordstrom Canada's 2,500 full and part-time employees work in Ontario. Further, during fiscal year 2022, store sales in Ontario totalled \$220 million, compared to \$148 million in British Columbia and \$77 million in Alberta.

39. The same analysis can be applied here. Approximately 58% of the employees of the Applicants are situated in Ontario. While the Applicants have two cannabis facilities in each of Ontario and British Columbia, the largest facility of the Company is in Hamilton, Ontario. The Company maintains corporate offices in both Ontario and British Columbia and a majority of the BZAM directors reside in Ontario. In addition, the principal place of business of the senior secured lender, Cortland, is Ontario.

### **Stay of Proceedings**

40. Section 11.02(1) of the CCAA provides that the Court may order a stay of proceedings on an initial CCAA application for a period of not more than 10 days. Section 11.001 of the CCAA provides that relief granted on an initial CCAA application shall be limited to relief that is reasonably necessary for the continued operations of the debtor company in the ordinary course of business during that initial 10-day period.

41. A stay of proceedings is clearly necessary here if any form of restructuring process is to be successful. The relief sought today is limited to what is reasonably necessary.

### **Non-Applicant Stay Parties**

42. I am also satisfied that the stay should apply to the Non-Applicant Stay Parties. The Court has authority to extend the stay to non-parties pursuant to sections 11 and 11.02(1) of the CCAA, which permits the Court to make an initial order on any terms imposed. In determining whether a stay should be extended to non-parties, courts have considered numerous factors, including whether the subsidiaries of applicants had guaranteed secured loans of the applicants, whether the non-applicants were deeply integrated into the business operations of the applicants, and whether the claims against the non-applicants were derivative of the primary liability of the applicants: See *MPX International Corporation*, 2022 ONSC 4348 ("*MPX*") at para 52, *Lydian International Limited, (Re)*, 2019 ONSC 7473 at para 39; *Sino-Forest Corporation (Re)*, 2012 ONSC 2063 at paras 5, 18, and 31; at paras 28-29; and *Target Canada Co.*, 2015 ONSC 303 ("*Target*") at paras 49-50.

73. All of the Non-Applicant Stay Parties here are highly integrated into the business as wholly-owned subsidiaries (direct or indirect) of BZAM, or in the case of 943 Québec, as a soon to be acquired company. None carry on active business. The three entities other than 943 Québec also have tax attributes which could be beneficial to the objective of maximizing value for stakeholders.

44. I am satisfied that the stay should be extended to these parties to prevent uncoordinated realization and enforcement attempts from being made in different jurisdictions all of which would be counterproductive to the maximization and protection of value for stakeholders of the Applicants.

45. Moreover, the Applicants advise that they intend to seek approval of a SISP in this proceeding which will include the Non-Applicant Stay Parties with the result that the stay should apply to them to give comfort to potential bidders that enforcement actions against those parties will be stayed while a sales process is being conducted.

### **Regulatory Stay of Licences**

46. CCAA courts have granted regulatory stays over licences where, absent such a stay, the applicable regulators were likely to suspend or cancel licences due to the commencement of the CCAA proceeding. Other courts have observed that permitting the immediate termination of the licenses of a debtor company would not avoid social and economic losses but rather would amplify them. See: *Re Just Energy Corp.*, at para 87; *Abbey Resources Corp., Re*, (29 July 2021) *Saskatoon Q.B. No. 733 of 2021 (SKQB)*; *Original Traders Energy Ltd. et al.*, (30 January 2023) *Toronto, Ont Sup Ct [Commercial List] CV-23-00693758-00CL* (Initial Order) at para 19.

47. Canadian courts have also granted stays to prevent the Canada Revenue Agency from seeking to enforce its rights through regulatory actions related to an excise licence for a cannabis company during the period in which it was under protection in an insolvency regime: *Tantalus Labs Ltd., Re*, 2023 BCSC 1450 (“*Tantalus*”) and *Aleafa Health Inc.* SISP Approval Order August 22, 2023 [CV-23-00703350-00CL].

48. In *Tantalus*, the British Columbia Supreme Court granted an order as part of the BIA proposal maintaining the status quo of a cannabis excise licence during the course of the proposal proceeding. It did so, rejecting the submission of the CRA, which had submitted that a ministerial decision to not renew a licence could not be the subject of a stay under the *BIA*. The same principles apply to a CCAA proceeding.

49. The cannabis licences of the Applicants are among their most valuable assets. Just as importantly, they are required to permit the Applicants to continue operating their underlying business. The expiry or cancellation of licences will suspend or terminate completely the operation and delivery of products by the Applicants with the result that the ability of the Applicants to restructure or continue as a going concern business will in all probability be eliminated.

### **Appointment of FTI as Monitor**

50. The Applicants propose to have FTI appointed as the Monitor. FTI is a “trustee” within the meaning of subsection 2(1) of the *BIA*, is established and qualified, and has consented to act as Monitor. The involvement of FTI as the court-appointed Monitor will lend stability and assurance to the Applicants’ stakeholders. FTI is not subject to any of the restrictions set out in s. 11.7(2) of the *CCAA*.

51. I am satisfied that FTI should be appointed as Monitor in these CCAA Proceedings.

### **The DIP**

52. Pursuant to a DIP facility agreement dated February 28, 2024 (the “DIP Agreement”), Cortland as proposed DIP Lender, has agreed to provide TGOD as borrower with a super priority, non-revolving

credit facility up to a maximum principal amount not to exceed the lesser of \$71 million and the Revolving Facility Limit (as defined in the Second ARCA) plus \$7 million, subject to certain conditions. Each of the Applicants is a guarantor under the DIP Agreement.

53. The DIP Loan has a commitment fee of \$98,000 and bears interest at the greater of the Toronto-Dominion Bank's floating annual rate of interest plus 8.05% per annum and 12% per annum (an interest rate that I observe is the same as that set out in the Second ARCA).
54. The DIP Loan is conditional on the granting of the DIP Charge.
55. The amount of the DIP Loan to be funded during the initial stay period of 10 days (up to \$2,400,000) is only that portion necessary to ensure the continued operation of the business of the Applicants in the ordinary course for that period of time such that I am satisfied it is appropriate that it be approved at this time pursuant to section 11.2(5) of the CCAA, as was approved in *Mjardin Group, Inc., (Re)*, 2022 ONSC 3338 at para. 31.
56. While the DIP Agreement contemplates what the Applicants describe as a "creeping-roll up" structure pursuant to which all post-filing receipts by the Applicants will be applied to repay pre-filing obligations owing to Cortland, it is important to note that the DIP Charge does not secure any obligation that existed prior to the granting of the Initial Order. This Court has previously approved DIP facilities that use receipts from operations post-filing to repay pre-filing amounts, pursuant to the jurisdiction found in section 11.2(1). The emphasis is on preserving the pre-filing status quo, so as to uphold the relative pre-stay priority position of each secured creditor: *Comark Inc., (Re)*, 2015 ONSC 2010 at paras. 40-41; and *Performance Sports Group Ltd.*, 2016 ONSC 6800 at para. 22.
57. Moreover, and in accordance with section 11.2(1), notice has been provided to the secured creditors proposed to be primed by the DIP, and as noted above, the proposed DIP Charge does not secure any pre-filing obligations of the Applicants. Cortland, the proposed DIP Lender, is already in first position as the senior secured creditor in respect of all of the property of the Applicants save and except for the Edmonton Facility which is not proposed to be primed by the DIP in any event. Stone Pine Capital is supportive of the proposed DIP Loan.
58. Section 11.2(4) of the CCAA sets out a non-exhaustive list of criteria that the Court must consider in deciding whether to grant a DIP lender's charge. Those criteria include the period during which the Applicants are expected to be subject to CCAA proceedings, how the Applicants' business and financial affairs are to be managed during the proceedings, whether the Applicants' management has the confidence of its major creditors, whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the Applicants, the nature and value of the Applicants' property, whether any creditor would be materially prejudiced as a result of the security or charge, and whether the monitor supports the charge.
59. DIP financing may be approved even if it potentially prejudices some creditors, as long as the prejudice is outweighed by the benefit to all stakeholders.
60. It is important that an applicant meet the criteria in section 11.2(1) as well as those in section 11.2(4). (See *CanWest Publishing Inc., Re*, 2010 ONSC 222 ("*CanWest*") at paras. 42-44).
61. I am satisfied that the Applicants are facing a liquidity crisis and the Cash Flow Statement shows that financing even on an interim basis is required to fund these proceedings.
62. I am also satisfied that the terms of the proposed DIP Loan are appropriate. I recognize that the interest rate is at the very high end of the range within which DIP loans have been approved by this Court. However, I am satisfied that it is appropriate here. First, the rate is exactly the same as the rate applicable to the existing credit facilities of the senior secured creditor, Cortland, who is the proposed DIP Lender,



SO THERE IS NO INCREASE IN THE COST OF BORROWING RELATIVE TO THE CURRENT FACILITIES. SECOND, THE COMMITMENT fee is relatively modest as against the total funding to be made available. The cost of borrowing necessarily involves a consideration of the commitment fee together with the applicable interest rate. Third, interest rates generally have increased materially over the last year, so one must proceed with caution in considering a previously established range of interest rates. Fourth, the cannabis sector generally has faced and continues to face significant challenges and risks, with the result that the cost of borrowing within the sector generally is expensive.

63. Finally, the Proposed Monitor is supportive of the DIP Loan and corresponding charge, and is further in agreement that those amounts proposed to be advanced during the initial 10 day period are required in order to preserve the status quo and the going concern operations of the Applicants.

### **Administration Charge**

64. The Court has jurisdiction to grant an administration charge under s. 11.52 of the CCAA. It is to consider: the size and complexity of the business being restructured, the proposed role of the beneficiaries of the charge, whether there is an unwarranted duplication of roles, whether the quantum of the proposed charge appears to be fair and reasonable, the position of the secured creditors likely to be affected by the charge, and the position of the Monitor. (See *CanWest*, at para. 54).

65. The administration charge of \$500,000 is appropriate. It is supported by the Proposed Monitor and the senior creditors.

### **Directors' Charge**

66. The Court has jurisdiction to grant a directors' charge under section 11.51 of the CCAA, provided notice is given to the secured creditors who are likely to be affected by it. To ensure the stability of the business during the restructuring period, the Applicants need the ongoing assistance of their directors and officers, who have considerable institutional knowledge and specialized expertise.

67. Here, I recognize that the proposed quantum of the Directors' Charge is very significant at \$5,300,000. However, almost all of that is as a result of the excise tax obligations owing by the Applicants which are very material and which, I observe, will increase going forward.

68. The Monitor supports the Applicants' request for the Directors' Charge. I am satisfied it is appropriate here.

69. The Directors' Charge is approved.

### **Relief from Securities Obligations**

70. The Applicants seek relief to dispense with certain securities filing requirements and in particular, the authority to incur no further expenses in relation to any filings, and that none of the directors or officers, employees or other representatives of the Applicants or the Monitor shall have personal liability with respect thereto.

71. This Court has previously granted such relief and I am satisfied that it is appropriate here. See: *Aleafa Health Inc.*, amended and restated initial order issued August 4, 2023 [CV-23-00703350-00CL] paras 45-46; *MPX International Corporation*, amended and restated initial order issued July 25, 2022 [CV-22-00684542-00CL] at para 46-47; *CannTrust Holdings Inc., Re*, initial order issued March 31, 2021 [Court File No. CV-20-00638930] at paras 46-47; and *Pure Global Cannabis, Inc., Re*, initial order issued March 19, 2020 [CV-20-00638503-00CL] at para. 49.

**AUTHORIZATION FOR PRE-FILING PAYMENTS**

72. The Applicants seek the authority but not the requirement to make payments for goods or services supplied to the Applicants prior to the date of the Initial Order, but in all cases only with the consent of the Monitor and the DIP Lenders, and only in circumstances where, in the opinion of the Applicants and the Monitor, the supplier or service provider is critical to preserve, protect or enhance the value of the business.
73. While section 11.4 of the CCAA gives the Court authority to declare a person to be a critical supplier and to grant a charge on the debtor's property to secure amounts owing for services provided post-filing, nothing in that section removes the inherent jurisdiction of the court to allow the payment of pre-filing amounts to suppliers who services are critical to the post-filing operations of the debtor, even where the debtor does not propose to secure the payment of post-filing goods or services with a critical supplier charge: See *Cline Mining Corp., Re*, 2014 ONSC 6998 at para. 38, and *MPX* at para. 70.
74. Such relief may be included in an initial order: see *Target*, at paras. 64-65.
75. I am satisfied that such relief is appropriate here, particularly given that the consent of the Monitor is required for such payments to be made.

**Comeback Hearing**

76. The comeback hearing shall take place on Friday, March 8, 2024 commencing at 2:00 PM via Zoom.
77. The order I have signed is effective immediately and without the necessity of issuing and entering.



Osborne, J.