

**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 FIRE
& FLOWER HOLDINGS CORP., FIRE & FLOWER INC. 13318184 CANADA INC.,
11180703 CANADA INC., 10926671 CANADA LTED., FRIENDLY STRANGER
HOLDINGS CORP., PINEAPPLE EXPRESS DELIVERY INC., and HIFYRE INC.**

Applicants

**NOTICE OF MOTION OF TURNING POINT BRANDS (CANADA) INC.
(Re: Lifting Stay Proceedings)**

Turning Point Brands (Canada) Inc. ("**TPB Canada**"), will make a motion to Justice Osborne presiding over the Commercial List on June 19, 2023 at 9:00 a.m. by way of judicial teleconference via Zoom at Toronto, Ontario, or as soon thereafter as possible.

PROPOSED METHOD OF HEARING: The Motion is to be heard

- in writing under subrule 37.12.1(1);
- in writing as an opposed motion under subrule 37.12.1(4);
- orally.

THE MOTION IS FOR:

1. An Order:
 - (a) lifting the stay of proceedings pursuant to the Amended and Restated Initial Order of Justice Osborne dated June 15, 2023 ("**ARIO**") for the limited purpose of permitting TPB Canada to:

- (i) terminate the Exclusive Distribution Agreement between TPB Canada, as the distributor, and Fire & Flower Inc. (“**F&F**”), as the retailer, dated January 5, 2023 (the “**Consignment Agreement**”); and
 - (ii) take such steps as are necessary to repossess the Goods (as defined below) that are in the possession, power or control of F&F; and
- (b) that F&F return the Goods in its possession, power or control to TPB Canada.

THE GROUNDS FOR THE MOTION ARE:

1. TPB Canada carries on business as a manufacturer and distributor of products used in the preparation, storage, and use of cannabis. It does not carry on business as a financier.
2. On January 5, 2023 (the “**Effective Date**”), TPB Canada and F&F entered into the Consignment Agreement, pursuant to which:
 - (a) TPB Canada would purchase all of the cannabis accessories (the “**Goods**”) owned by F&F and be the sole distributor of Goods going forward;
 - (b) TPB Canada maintains ownership and title over the Goods in F&F’s possession; and
 - (c) F&F would sell the Goods, retain a specified commission and remit the balance to TPB Canada.

3. Since then, TPB Canada and F&F have acted at all times on the basis that this is a consignment relationship. TPB has continued to provide Goods to F&F. TPB Canada owns title to all of the Goods sold by F&F. The Goods are readily identifiable and traceable.
4. On June 5, 2023, F&F obtained the Initial Order of Justice [Steele] commencing these CCAA proceedings (the “**CCAA Proceedings**”) and imposing a stay of proceedings (the “**Stay**”).
5. As of June 5, 2023, F&F was indebted to TPB Canada in the approximate amount of \$460,000 and, as at May 31, 2023, held Goods owned by TPB Canada valued at of \$1,150,398.
6. The Stay interferes with TPB Canada’s right to repossess its property, which is in the possession of F&F and, by the nature of the terms of the Consignment Agreement, forces TPB Canada to extend credit to F&F. TPB Canada is unwilling to extend credit to F&F and to permit F&F to continue to fund these CCAA Proceedings with the sale of TPB Canada’s Goods.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

1. The Affidavit of Mikail Fancy sworn June 16, 2023; and
2. such further and other evidence as the lawyers may advise and this Honourable Court may permit.

June 16, 2023

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TO: **SERVICE LIST**

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ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF FIRE & FLOWER HOLDINGS CORP., FIRE & FLOWER INC.
13318184 CANADA INC., 11180703 CANADA INC., 10926671 CANADA LTD., FRIENDLY STRANGER HOLDINGS CORP., PINEAPPLE
EXPRESS DELIVERY INC., and HIFYRE INC.

Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

**NOTICE OF MOTION OF TURNING POINT
BRANDS (CANADA) INC.**
June 19, 2023 – Lifting of Stay Proceeding

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