



Court File No. CV-11-9159-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)
JUSTICE MORAWETZ)

WEDNESDAY, THE 29TH
DAY OF JUNE, 2011

**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 PRISZM INCOME FUND, PRISZM CANADIAN OPERATING TRUST, PRISZM INC.
AND KIT FINANCE INC.**

(the "Applicants")

ORDER

**(Re Extension of Stay Period, Approval of DIP Extension, Amendments to
CRO Agreements, Authority to Dispose of Non-Material Assets,
and Approval of Monitor Reports)**

THIS MOTION, made by Priszm Income Fund, Priszm Canadian Operating Trust, Priszm Inc., Priszm LP and Kit Finance Inc. (collectively, the "**Priszm Entities**") for an order *inter alia* (a) extending the Stay Period until August 31, 2011; (b) approving the DIP Extension Amendment; (c) amending the Papernick CRO Agreement; and (d) approving the Robertson CRO Agreement (as these terms are defined below), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Deborah Papernick sworn June 23, 2011 (the "**June 23 Affidavit**") and the Pre-filing Report of FTI Consulting Canada Inc. in its capacity as the proposed monitor of the Priszm Entities dated March 31, 2011, the First, Second and Third Reports of FTI Consulting Canada Inc. in its capacity as the Court-appointed Monitor of the

Priszm Entities (the "**Monitor**"), and on hearing the submissions of counsel to the Priszm Entities, the Monitor, Prudential Investment Management Inc., Yum! Restaurants International (Canada) Company, 2279549 Ontario Inc., Deborah Papernick, Jim Robertson, 2289500 Ontario Inc., Sysco Canada and 20 VIC Management Inc., Ivanhoe Cambridge Inc., Morguard Investments Limited, Retrocom Mid-Market REIT, Primaris Retail Real Estate Investment Trust, and Oxford Properties Group Inc., no one appearing for any other person on the Service List, although properly served as appears from the affidavit of service, 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.

APPROVAL OF THE MONITOR'S REPORTS

2. **THIS COURT ORDERS** that the Pre-filing Report of FTI Consulting Canada Inc. in its capacity as the proposed monitor of the Priszm Entities dated March 31, 2011, the First Report of the Monitor dated April 26, 2011 and the Second Report of the Monitor dated May 27, 2011 and the activities of the Monitor described therein are hereby approved.

STAY EXTENSION

3. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 14 of the Initial Order of the Honourable Mr. Justice Morawetz dated March 31, 2011, which was amended and restated by the Amended and Restated Initial Order of the Honourable Justice Mesbur dated April 29, 2011 (the "**Amended and Restated Initial Order**")) and as extended to June 30, 2011,

by the Order of the Honourable Madam Justice Mesbur dated April 29, 2011, is hereby extended until and including September 30, 2011.

DIP EXTENSION

4. **THIS COURT ORDERS** that the Amendment No. 12 to Note Purchase And Private Shelf Agreement and Forbearance Agreement dated June 22, 2011 (the "DIP Extension Amendment") attached as Exhibit "B" to the June 23 Affidavit extending the debtor-in-possession facility, provided for and described in the Amended and Restated Initial Order at paragraphs 41-45, until and including September 30, 2011 is hereby approved.

5. **THIS COURT ORDERS** that the DIP Extension Amendment and any advances made pursuant to it shall be secured by the DIP Lender's Charge (as defined in the Amended and Restated Initial Order) and shall be entitled to and be subject to the same rights, limitations and protections as those granted with respect to the DIP Amendment and the DIP Lender's Charge in paragraphs 41-51 of the Amended and Restated Initial Order.

AMENDMENT OF CRO AGREEMENT

6. **THIS COURT ORDERS** that the Amending Agreement dated June 23, 2011, which amends the letter agreement between the Prizm Entities and 2279549 Ontario Inc. dated March 30, 2011 (the "Papernick CRO Agreement"), a redacted copy of which is attached as Exhibit "C" to the June 23 Affidavit is hereby approved.

APPROVAL OF ROBERTSON CRO AGREEMENT

7. **THIS COURT ORDERS** that 2289500 Ontario Inc. (the "New CRO") is hereby appointed as Chief Restructuring Officer, an officer of this Court, effective ~~August~~ ^{July} 1, 2011, and shall have the powers and obligations set out in the agreement entered into between the Prizm

29 Entities and 2289500 Ontario Inc. dated June 23, 2011 (the "Robertson CRO Agreement").

8. **THIS COURT ORDERS** that the Robertson CRO Agreement, a redacted copy of which is attached as Exhibit "D" to the June 23 Affidavit, is approved and the Prizm Entities are authorized to perform all of their obligations pursuant to the Robertson CRO Agreement.

9. **THIS COURT ORDERS** that the New CRO shall consult with the Monitor regarding all material issues relating to the Business (as defined in the Amended and Restated Initial Order) and all issues relating to these proceedings and shall not authorize any payment greater than \$500,000 on behalf of the Prizm Entities without the prior concurrence of the Monitor to such payment.

10. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the New CRO as an officer of this Court, neither the New CRO nor any employee of the New CRO shall be deemed to be a director or trustee of any of the Prizm Entities.

11. **THIS COURT ORDERS** that neither the New CRO nor any employee of the New CRO shall incur any liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its or their part; provided that any liability of the New CRO hereunder shall in no event exceed the quantum of the fees paid to the New CRO.

12. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against or in respect of the New CRO or any employee of the New CRO, except with the written consent of the New CRO or with leave of this Court on notice to the New CRO, the Monitor, and the Prizm Entities.

RESTRUCTURING

13. **THIS COURT ORDERS** that the Prizm Entities shall, subject to the prior consent of the Monitor, have the right to dispose of redundant or non-material assets, and to sell assets or operations not exceeding \$100,000 in any one transaction or \$1,000,000, in the aggregate.

SEALING THE CONFIDENTIAL APPENDIX

14. **THIS COURT ORDERS** that the confidential appendix D to the Third Report of the Monitor shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice which sets out the title of the proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of the Court.

A handwritten signature in blue ink, appearing to read "J. P. Lewis", is written over a horizontal line.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JUN 29 2011

PER/PAR: 

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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

ORDER

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