

**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 GREEN GROWTH BRANDS INC.,
GGB CANADA INC., GREEN GROWTH BRANDS REALTY
LTD. AND XANTHIC BIOPHARMA LIMITED**

**RESPONDING RECORD OF GREEN OPS GROUP, LLC
and WMB RESOURCES, LLC**

May 31, 2020

LOOPSTRA NIXON LLP
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Toronto, ON M9W 6V7

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*Lawyers for Green Ops Group, LLC and
WMB Resources, LLC*

TO: EMAIL SERVICE LIST, ATTACHED

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**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
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**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
GREEN GROWTH BRANDS INC., GGB CANADA INC., GREEN GROWTH BRANDS
REALTY LTD. AND XANTHIC BIOPHARMA LIMITED**

Applicants

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TAB 1

Court File No. 20-00641220-00CL

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AFFIDAVIT OF THOMAS LAMBERT
(sworn May 31, 2020)

I, THOMAS LAMBERT, of the City of Hamilton, in the Province of Ontario, MAKE
OATH AND SAY AS FOLLOWS:

1. I am an associate lawyer at Loopstra Nixon LLP, lawyers for Green Ops Group, LLC ("**Green Ops**") and WMB Resources, LLC ("**WMB**"). The facts set forth herein are within my personal knowledge or determined from the face of documents attached hereto as exhibits and from information provided to me by third parties. Where I have relied upon such information, I have identified the source of the information and verily believe it to be true.

2. On May 30, 2020, Graham Phoenix ("**Mr. Phoenix**"), a partner at Loopstra Nixon LLP, received correspondence sent on behalf of Lou Brzezinski ("**Mr. Brzezinski**"), a partner at Blaney McMurtry LLP, lawyers for Michael Horvitz, wherein Mr. Brzezinski requests the disclosure of certain documents and consent to be examine Mr. Wayne Boich the week of June 1, 2020 or as soon thereafter as possible. Attached hereto and marked as **Exhibit "A"** is a copy of Mr. Brzezinski's May 30, 2020 correspondence.

3. On May 30, 2020, Mr. Phoenix responded to Mr. Brzezinski that Mr. Boich would not consent to an examination on the basis that his economic interests had been disclosed and he has nothing relevant to offer on an examination with respect to the issues and relief sought on the motion by Green Growth Brands Inc. and other applicants (the “**Applicants**”) in these proceedings for, among other things, approval of a sales and investment solicitation process and a stalking horse offer. However, in such response Mr. Phoenix did, on behalf of Green Ops, WMB and Mr. Boich, clarify their economic interests in the Applicants and the absence of any relationship with the Schottenstein family. Attached hereto and marked as **Exhibit “B”** is a copy of Mr. Phoenix’s May 30, 2020 correspondence, delivered to, among other people, Mr. Brzezinski.

4. I swear this affidavit to ensure that the attached correspondence is available to the Court, and for no other reason or improper purpose.

SWORN BEFORE ME at the City of
Toronto, in the Province of Ontario, on May
31, 2020



Commissioner for Taking Affidavits
(or as may be)



THOMAS LAMBERT

TAB 1A

This is **Exhibit “A”** referred to in the
affidavit of Thomas Lambert sworn before me
this 31st day of May, 2020



A commissioner for taking affidavits.

Lou Brzezinski
416-593-2952
lbrzezini@blaney.com

May 30, 2020

BY EMAIL

Stikeman Elliott LLP
Attn: Ashley Taylor
Barristers & Solicitors
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Lawyers for the Applicants

McMillan LLP
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Lawyers for All Js Greenspace LLC

Loopstra Nixon LLP
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WMB Resources LLC

Keyser Mason Ball, LLP
Attn: Wojtek Jaskiewicz
900 – 3 Robert Speck Parkway
Mississauga, ON
L4Z 2G5

*Counsel to Capital Transfer Agency ULC, a
Secured Party*

Dear Mr. Taylor, Mr. Rostom, Mr. Phoenix, and Mr. Jaskiewicz:

**RE: In the Matter of the *Companies Creditors' Arrangement Act* ("CCAA") and in the Matter of a Plan of Compromise or Arrangement of Green Growth Brands Inc. ("GGB"), GGB Canada Inc., Green Growth Brands Realty Ltd., and Xanthic Biopharma Limited (collectively, the "Applicants")
Court File No. CV-20-00641220-00CL**

Further to yesterday's adjourned Comeback Motion, and the instructions provided by Mr. Justice McEwen, our client requires disclosure of the following documents:

- 1) The agreement (and/or letter of intent) entered into between Green Ops Group's and GAOC for the acquisition of the GAOC Note;
- 2) GGB's terms of engagement with the Monitor for its role in the SISP;
- 3) The specific sale process to be employed by the Monitor for the sale process;
- 4) GGB board meeting minutes with respect to the issuance of the CAD \$102,000,000 Backstop Debenture;

- 5) All past, prior, draft, and submitted applications for Nevada state cannabis dispensary (medical or otherwise) licences cannabis dispensary (medical or otherwise); and,
- 6) All past, prior, draft, and submitted applications for Florida state cannabis dispensary (medical or otherwise) licences.

Further, we also request to examine the following parties:

- 1) Randy Whitaker III to be cross-examined on his affidavits sworn in support of these CCAA proceedings on Sunday, May 31, 2020 from 1:00PM to 4:00PM by way of video conference. We have contacted Neesons Court Reporting and they are in the midst of finding an available Court Reporter.

The examination of the following parties during the week of June 1, 2020 (or as soon as possible thereafter):

- 2) Wayne Boich;
- 3) Jay Schottenstein;
- 4) Jean Schottenstein; and,
- 5) Joseph Schottenstein.

To the extent that these documents are not produced, or the witnesses are not made available for examination, we will be asking the Court to draw an adverse inference.

We look forward to your response.

Yours very truly,

Blaney McMurtry LLP



Lou Brzezinski

LB/VA/jb

cc: Service List

TAB 1B

This is **Exhibit “B”** referred to in the
affidavit of Thomas Lambert sworn before me
this 31st day of May, 2020

A handwritten signature in black ink, appearing to read "John G. Smith". The signature is written in a cursive style with a large, looping initial "J".

A commissioner for taking affidavits.



R. Graham Phoenix*
Direct Line: (416) 748-4776
gphoenix@loonix.com

May 30, 2020

VIA EMAIL (lbrzezinski@blaney.com)

BLANEY McMURTRY LLP
2 Queen Street East – Suite 1500
Toronto, ON M5C 3G5
Attn: Lou Brzezinski

Dear Mr. Brzezinski:

RE: In the Matter of the Companies' Creditors Arrangement Act ("CCAA") and In the Matter of a Plan of Compromise or Arrangement of Green Growth Brands Inc. ("GGB"), GGB Canada Inc., Green Growth Brands Realty Ltd. and Xanthic Biopharma Limited (collectively, the "Applicants")

Court File No. CV-20-00641220-00CL

We are in receipt of your letter of today's date, addressed to our office as well as to counsel to the Applicants, All Js Greenspace LLC and Capital Transfer Agency ULC.

With respect, the contents of your letter misconstrue Justice McEwen's comments on yesterday's Comeback Motion. Among other things, he did not direct that our client produce the agreement for the acquisition of GAOC Note, nor did he indicate that he would draw any adverse inference in the event Mr. Boich did not consent to an examination. Moreover, he clearly indicated that he did not believe the examination of anyone, other than cross-examination of Mr. Whitaker, was within the four corners of these proceedings.

Accordingly, our clients will not be producing the agreement to acquire the GAOC Note. Per our submissions at the Comeback Motion, such agreement is a private business agreement between two non-parties. It is not relevant to these proceedings. As we advised the Court, the seller of the GAOC Note was GA Opportunities Corp., which held the note for Aphria Inc., a publicly-traded company. Moreover, not only is such agreement not relevant, it is not producible under s. 11.9 of the CCAA.

Additionally, Mr. Boich will not consent to an examination. Per our submissions at the Comeback Motion, his interests have been disclosed to the Court, he has nothing relevant to offer to the issues and relief sought on the Comeback Motion.

{L0891394.1}



Mindful of Justice McEwen's comments that parties should share some information so as to provide some clarity to the Court and other parties, and to correct misstatements in your client's affidavit, we advise as follows:

- (a) the economic interests of Mr. Boich, Green Ops Group, LLC ("Green Ops") and WMB Resources, LLC ("WMB") in the Applicants are limited to such interests as set out in the Applicant's Application Record: namely, (i) as holder of the GAOC Note (face value CAD \$39,000,000) and (ii) as holder of certain May Debentures (face value USD \$5,000,000); and also as holder of 7,170,356 shares in GGB;
- (b) neither Mr. Boich, Green Ops nor WMB took advice from, or were encouraged by, any member of the Schottenstein family to acquire the GAOC Note or any other debt instrument;
- (c) neither Mr. Boich, Green Ops nor WMB has any past or present economic relationship with any member of Schottenstein family, save and except for they happen to be investors in GGB;
- (d) for greater certainty, no member of the Schottenstein family has any direct or indirect interest in Green Ops or WMB; and
- (e) for further certainty, other than the investments in GGB, neither Mr. Boich, Green Ops nor WMB has any direct or indirect connection with the Schottenstein family or any direct or indirect interest in any company, partnership, venture, enterprise or any other investment vehicle controlled by the Schottenstein family.

We do not agree with your client's position, which is a blatant attempt to delay and frustrate these proceedings to the detriment of the Company and all other stakeholders, including – inexplicably – his fellow debentureholders.

We urge your client to consider all the materials filed to date, any relevant materials he may receive this weekend, the potential cost consequences of his actions, and to reconsider his position in advance of Monday's continuation.

Yours truly,

LOOPSTRA NIXON LLP

Per:


R. Graham Phoenix*
Partner

*Practising as RGP Professional Corporation

cc: Jay Sakalo (US counsel to Green Ops Growth, LLC and WMB Resources, LLC)
Ashley Taylor (counsel to the Applicants)
Wael Rostom (counsel to All Js Greenspace LLC)
Wojtek Jaskiewicz (counsel to Capital Transfer Agency ULC)

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Proceedings commenced at Toronto

**AFFIDAVIT OF THOMAS LAMBERT
(sworn May 31, 2020)**

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