Court File No. CV-20-00638930-00CL

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 CANNTRUST HOLDINGS INC., CANNTRUST INC., CTI HOLDINGS (OSOYOOS) INC. AND ELMCLIFFE INVESTMENTS INC.

Applicants

RESPONDING FACTUM OF THE RESPONDENT, PETER ACETO

(Returnable March 19, 2021)

March 18, 2021

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AND TO: **SERVICE LIST**

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(Returnable March 19, 2021)

PART I - OVERVIEW

1. The Respondent, Peter Aceto, opposes the Applicants' request for this Court to set a meeting (the "**Meeting**") for certain of the Applicants' creditors to vote on the Applicants' proposed Plan of Compromise, Arrangement and Reorganization (the "**CCAA Plan**").

2. Mr. Aceto relies on the submissions of the other Non-Settling Defendants regarding the financial position of the Applicants, including the "false dichotomy" of CCAA Plan approval or liquidation. The Applicants have created an artificial sense of urgency in their attempt to extract themselves and certain favoured officers and directors from a number of large and complex litigation proceedings before any steps have been taken in those actions, including, certification, statements of defence and documentary disclosure.

3. In fact, it is apparent that the Applicants have ample financial resources to defend the litigation, carry on business and meet their obligations as they come due. On cross-examination, Greg Guyatt gave the following evidence with respect to the $50 million that the Applicants have agreed to pay to the Securities Claimant Trust under the terms of the RSA:

> *Q. And what if it's not set aside anymore and you can use it to run the business? You don't need to file liquidations the next day, do you?*
>
> *A. Well, if we still had $50 million, then yeah, I would love to use that to run the business, but I'm operating under the assumption that that money is gone.*[1]

4. This factum addresses the position of Mr. Aceto, who was the CEO of CannTrust Holdings Inc. ("**CannTrust**") from October 1, 2018 until July 25, 2019, when he was abruptly terminated "for cause". Notwithstanding his brief tenure, Mr. Aceto has been singled out as responsible for CannTrust's legal woes, which had their origin in actions taken well before Mr. Aceto joined CannTrust.

5. The CCAA Plan is designed to accomplish the Applicants' strategy of achieving an early exit from the litigation at the expense of Mr. Aceto and other parties who are not shielded by the proposed releases and injunctions and who will face the Pending Litigation (as defined herein) without indemnification or cooperation from the Applicants. CannTrust has chosen to side with plaintiffs to the further prejudice of the defendants to the Pending Litigation (the "**Non-Settling Defendants**") that have not entered into the RSA (as herein defined). This is fundamentally unfair and should be rejected by this Court.

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[1] Transcript of the Cross-Examination of Greg Guyatt (the "**Guyatt Cross-Examination**"), held on Wednesday March 17, 2021, at p. 103, q. 344.

PART II - SUMMARY OF FACTS

Aceto's Employment and Entitlement to Indemnification

6. The terms of Mr. Aceto's employment with CannTrust were set out in an employment agreement dated October 1, 2018 (Mr. Aceto's "**Employment Agreement**").[2] Section 10 of Mr. Aceto's Employment Agreement provides Mr. Aceto with customary indemnification rights.[3]

7. In addition, Amended and Restated By-Law No. 1 of CannTrust ("**By-Law No. 1**") provides Mr. Aceto with the right to indemnification as a former Officer of CannTrust.[4]

8. For Mr. Aceto, the indemnification rights provide through his Employment Agreement and By-Law No. 1 were of critical importance when taking on the role of CEO. As noted by Mr. Guyatt during his cross-examination: "Nobody would join a public company without having the appropriate indemnities in place."[5]

9. Mr. Aceto's employment with CannTrust was terminated for cause on July 25, 2019, following a barrage of negative publicity stemming from the release of an audit report by Health Canada (the "**Health Canada Audit Report**") concerning the Applicants' use of unlicensed growing rooms. The day before his termination, Mr. Aceto, along with Eric Paul, was identified in a Globe and Mail article as having been told on November 16, 2018, via an email, that cannabis plants had been moved into new growing rooms before they had been added to CannTrust's license.[6] This was only 6 weeks after Mr. Aceto joined CannTrust.

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[2] Affidavit of Jonathan Preece, sworn on March 12, 2021, (the "**Preece Affidavit**"), Exhibit "A", Responding Motion Record of the Respondent Peter Aceto ("**Aceto's Responding Record**"), Tab 1-A.
[3] *Ibid*.
[4] *Ibid* at Tab 1-B.
[5] Guyatt Cross-Examination, *supra* at p. 14, qq. 39-41.
[6] Applicants January 29, 2021 Motion Record, pp. 442-443.

10. Other past and present Officers of CannTrust were copied on the November 16, 2018, email chain, including CannTrust's CFO at the time and its current Chief Regulatory Officer. As far as we know, Mr. Aceto is the **only** Officer of CannTrust to have been terminated for cause. This occurred only two weeks into the investigation of the Special Committee, which was concluded on October 24, 2019, three months after Mr. Aceto was terminated.

11. As Mr. Guyatt confirmed on his cross-examination, all other CannTrust officers, directors and employees were thereafter given a "Pass/Fail" by the Special Committee. The remaining officers and directors apparently "Passed" and are included in CannTrust's settlement with the plaintiffs as Original Settling Defendants.[7] They include, amongst others:

(a) the current CEO Mr. Guyatt, who certified the 2019 Q1 financial statements, signed the Prospectus, participated in earnings calls, was involved in the due diligence of the underwriters for the Offering and presumably dealt with the auditors;

(b) Mark Dawber, a director since 2017 and the Chair of the Audit Committee through the relevant period and who later Chaired the Special Committee;

(c) Mitchell Saunders, a long-time director who provided extensive legal services to CannTrust (and its founders) and who sold shares in the Offering and in the secondary market at the material time; and

(d) Ilana Platt, who was copied on the November 16, 2019 email chain and is currently the Chief Regulatory Officer.

12. It is apparent that Mr. Aceto was sacrificed at the outset of the Special Committee Investigation to satisfy the media and the market. When the evidence is at some point made

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[7] Guyatt Cross-Examination, *supra* at pp. 36-37, qq. 137-140.

available, Mr. Aceto's role in the events at issue will prove to be virtually indistinguishable from that of current Officers of CannTrust. To date the report of the Special Committee and its findings have not been disclosed.

13. CannTrust has maintained its narrative that Mr. Aceto and Mr. Paul alone are at fault and have denied Mr. Aceto indemnity for his legal fees. This strategy has only emboldened (to the extent that is possible) the plaintiffs in the Pending Litigation (as defined below) and contributed to the primary insurers denying coverage to Mr. Aceto and by extension CannTrust. This unfairness has flowed into the CCAA process, including the claims process as it applied to Mr. Aceto, and the Amended Plan, which at this juncture is no more than a litigation exit plan for CannTrust and select directors and officers.

The Pending Litigation against Mr. Aceto

14. Following his termination, Aceto was named as a defendant to several individual and class action claims in Canada and the United States related to the issues raised in the Health Canada Audit Report, including but not limited to several of the Actions listed in Schedule "A" to the CCAA Plan (the "**Pending Litigation**").

15. In addition, the Ontario Securities Commission announced an investigation was being conducted by the Joint Serious Offences Team.

16. As discussed below, if the Applicants are permitted to call the Meeting to approve the CCAA Plan, Mr. Aceto will face the real prospect of having to defend the Pending Litigation and a potential criminal or regulatory proceedings in the absence of any right to indemnification from CannTrust and under conditions that fundamentally alter the landscape of that litigation.

The Proposed Meeting is a Continuation of a Flawed Process

17. The Applicants' motion to call the Meeting needs to be viewed as part of the Applicants' overall strategy, outlined above. It is doubtful that there is any uncertainty as to the outcome of the proposed voting as structured by the Applicants. The steps taken by the Applicants in these proceedings are summarized below.

18. By Order dated May 8, 2020, this Court appointed the Honourable Dennis O'Connor Q.C. as a mediator (the "**Mediator**") in the within CCAA proceedings with the mandate of mediating a "global settlement of the Mediation Claims", which includes the claims made against Aceto and other defendants to the Pending Litigation.[8]

19. By separate Order dated May 8, 2020, this Court established a claims procedure for creditors of the Applicants (the "**Claims Procedure**" and the "**Claims Procedure Order**").[9] On June 22, 2020, Mr. Aceto filed a Proof of Claim pursuant to the Claims Procedure Order, which included claims for wrongful dismissal and for indemnification for legal fees. On July 24, 2020, the Monitor disallowed Aceto's Proof of Claim in its entirety.[10]

20. On August 17, 2020, Mr. Aceto delivered a Notice of Dispute to the Monitor.[11] Despite the Claims Procedure Order contemplating that the Monitor and CannTrust could negotiate a resolution of any disputed claims, CannTrust made no efforts to negotiate any settlement of the claims made in Mr. Aceto's Proof of Claim.

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[8] Affidavit of Greg Guyatt, sworn March 5, 2021 (the "**Guayatt Affidavit**"), Exhibit "E", s. 4, Motion Record of the Applicants, Tab 2-E.
[9] *Ibid* at Tab 2-D.
[10] Preece Affidavit, *supra* at Tabs 1-C and 1-D.
[11] *Ibid* at Tab 1-E.

21. On January 19, 2021, the Applicants and the Securities Claimants reached a settlement of the Pending Litigation as against the Applicants, the terms of which are set out in a Restructuring Support Agreement (the "**RSA**").[12] The RSA does not settle the Securities Claimants' claims against Mr. Aceto and requires CannTrust to assign its claims against Mr. Aceto and other Non-Settling Defendants (if any) to the Securities Claimant Trust. As a result, the putative plaintiffs will be free to continue their claims against Mr. Aceto and the other Non-Settling Defendants following the approval of the CCAA Plan.

22. It was not until February 19, 2021 – 6 months after Mr. Aceto delivered his Notice of Dispute – that the Applicants obtained an Order appointing the Honourable Frank J.C. Newbould, Q.C. as claims officer (the "**Claims Officer**") to adjudicate certain claims.[13] It turns out that the only claims the Applicants submitted for adjudication were those of Mr. Aceto, Mr. Paul and Brady Green, the former Master Grower, who had also been terminated for cause. The indemnification claims of other Non-Settling Defendants were not addressed. Notable omissions include the Underwriters and Auditors.

23. Mr. Aceto was actively involved in the mediation at this time.[14] His claims within the Proof of Claim were within the scope of the matters being negotiated in the mediation. From the perspective of Mr. Aceto, the Applicants' initiation of the Claims Process in this manner materially interfered with the mediation.

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[12] *Guayatt Affidavit*, *supra* at Tab 2-I.
[13] Preece Affidavit, *supra* at Tab 1-F.
[14] *Ibid* at para 11.

24. On February 25, 2021, the Claims Officer issued Procedural Order No. 1, establishing a claims adjudication process to fit within the extremely tight timetable requested by the Applicants, who insisted that all claims had to be resolved so that the Meeting could be held by the end of April 2021.[15] The unrealistic timeline and summary adjudication process sought and obtained by the Applicants was completely impractical to resolve Mr. Aceto's Proof of Claim and highly prejudicial in the context of the CCAA Plan, which contemplates Mr. Aceto being left to defend the Pending Litigation, which involves the same facts and issues. The summary adjudication process lacked the necessary parties to resolve the complex factual and legal issues in dispute and was starting from ground zero in terms of documentary disclosure from the Applicants. Participation would have been the litigation equivalent of the Charge of the Light Brigade.

25. Mr. Aceto had no practical choice but to withdraw the claims made in his Notice of Claim.[16]

26. On March 5, 2021, the Applicants delivered their CCAA Plan. As with the RSA, the CCAA Plan provides that Mr. Aceto can only become an Additional Settlement Party if he agrees to, among other things, make a cash contribution to the Securities Claimant Trust, assign his claims to the Securities Claimant Trust, and support the CCAA Plan. Significantly, the CCAA Plan provides that this agreement must be reached <u>prior to the Meeting</u>.[17]

27. The Applicants' proposed Meeting Order is an extension of the coercive and prejudicial actions discussed above. The Applicants, in coordination with the Securities Claimants, have made efforts to undermine Mr. Aceto's claims and jeopardize his rights to indemnification for the

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[15] *Ibid* at Tab 1-G.
[16] *Ibid* at Tab 1-I.
[17] Guyatt Affidavit, *supra* at Tab 2-A; and Affidavit of Greg Guyatt, sworn on March 13, 2021 (the "**Supplementary Guyatt Affidavit**"), Exhibit "A", Tab 1-A.

purpose of extracting a settlement on the Securities Claimants' terms. These steps have been taken despite the fact that the Mediator has not been discharged of his mandate to mediate a global settlement and despite the fact that Mr. Aceto and certain other Non-Settling Defendants remain committed to engaging in further negotiations.

The CCAA Plan Negatively Affects Mr. Aceto's Interests

28. The terms of the CCAA Plan and RSA will fundamentally alter the landscape of the Pending Litigation. In addition to unduly limiting Mr. Aceto's rights to indemnification, the terms of the CCAA Plan and RSA create incentives for CannTrust and the putative plaintiffs to cooperate and pursue/support a litigation strategy that will prejudice Mr. Aceto and the other Non-Settling Defendants.

29. If approved, the CCAA Plan will extinguish Mr. Aceto's rights to indemnification under his Employment Agreement and By-Law No. 1. Despite Mr. Aceto's claims having not been resolved in these CCAA proceedings[18] and despite the effect that the CCAA Plan will have on Mr. Aceto's defence of the Pending Litigation, Mr. Aceto has not been afforded the right to vote on the CCAA Plan at the proposed Meeting.

30. The current amended version of the CCAA Plan attempts to alleviate the concerns raised by certain Non-Settling Defendants regarding their indemnity claims by adding "Defence Costs Indemnity Claims" to the definition of Unaffected Claims.[19] This revision falls short of providing Mr. Aceto with the indemnification rights that he is afforded under his Employment Agreement

[18] The claims process would have only applied to Mr. Aceto's indemnity rights pertaining to legal fees for the defence of a regulatory or criminal proceeding.
[19] Supplementary Guyatt Affidavit at Tab 1-A, s. 2.3(i).

and By-Law No. 1. First, Mr. Aceto's entitlement to Defence Costs Indemnity Claims under the CCAA Plan is limited to costs incurred if he has successfully defended a Securities-Related Claim. Second, the requirement to have mounted a successful defence to the Pending Litigation is a different and higher legal standard than that required by the Applicants to deny an indemnification claim.

31. In addition, with respect to the right to claim indemnification for any judgment obtained by the plaintiffs in the Pending Litigation, the current CCAA Plan provides that:

> "[…] [A]ny judgment or other award obtained by a Securities Claimant or the Securities Claimant Trust in respect of any Securities-Related Claim against a Non-Settlement Party or other Person that is not a Released Party shall be reduced by the amount, if any, that the court or other tribunal adjudicating the Securities-Related Claim determines would have been recovered by such Non-Settlement Party or other Person pursuant to a Securities-Related Indemnity Claim held by it against a Released Party […] but for the release of such Securities-Related Indemnity Claims pursuant to the CCAA Plan […] taking into account (i) the Cash Contribution to be made by CannTrust Holdings to the Securities claimant Trust and (ii) all other Securities-Related Indemnity Claims of other Non-Settlement Parties […]"[20] (the "**Judgment Reduction Provision**")

32. While this is an improvement on the first version of the CCAA Plan, the above noted Judgment Reduction Provision creates a scenario in which the Securities Claimants are incentivized to obtain a judgment against Mr. Aceto and the other Non-Settling Defendants that not only holds them liable for the plaintiffs' losses but also holds that Mr. Aceto and other Non-Settling Defendants are disentitled to indemnification. For example, if the plaintiffs obtain a judgment against Mr. Aceto in the amount of $50,000,000 but the trial Judge concludes that Mr. Aceto would have been entitled to recover the entire amount of that judgment from CannTrust, then the Securities Claimants will have received a paper judgment. On the other hand, if the

[20] *Ibid*, s. 7.3(2).

plaintiffs obtain a judgment against Mr. Aceto and the trial Judge concludes that Mr. Aceto would *not* have been entitled to recover any amount from CannTrust, then the plaintiffs will be entitled to the entire amount of the judgment.

33. This would also potentially trigger conduct exclusions under any applicable insurance policies to the prejudice of Mr. Aceto and, ironically, to the plaintiffs in terms of recovery.

34. A related concern is created by section 3.02(b) of the RSA, which provides, that if the amount recovered by the Securities Claimants and the Securities Claimant Trust from Mr. Aceto and other Non-Settling Defendant exceeds $250 million, then CannTrust will be entitled to be paid up to $50 million from the Securities Claimants.[21] This provision clearly incentivises CannTrust to lend their continued and partial support to the Securities Claimants in the hopes of recouping the amount paid to the Securities Claimant Trust as part of the RSA and CCAA Plan. This is particularly concerning given that CannTrust has agreed to cooperate with the Securities Claimants in respect of their prosecution of the Pending Litigation but has not provided any particulars of the scope of that cooperation agreement.

PART III - STATEMENT OF ISSUES, LAW & AUTHORITIES

35. The issue in dispute on this motion is whether this Court should exercise its discretion to grant the Meeting Order under sections 4 and 5 of the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36 (the "**Act**"). It is Mr. Aceto's position that, for the reasons set out below, this Court should *not* grant the Applicants' request to set the Meeting.

[21] Guyatt Affidavit at Tab 2-I.

This Court's Discretion to Deny Meeting

36. Sections 4 and 5 do not require this Court to set a Meeting at the request of a debtor company. Rather, these sections provide this Court with the *discretion* to grant such a request. As noted by the Court of Appeal for Ontario, "[t]he factors relevant to the exercise of that discretion are as variable as the fact situations which may give rise to the application."[22]

37. In this case, this Court should exercise its discretion to refuse to grant the Applicants' request to set a Meeting. The CCAA Plan is doomed to fail and has no reasonable prospect of being sanctioned given that: (a) the procedures carried out in these proceedings have not complied with the Act; (b) the CCAA Plan does not comply with the Act; and (c) the CCAA Plan is manifestly unfair to Mr. Aceto and other Non-Settling Defendants.[23]

Procedures followed in these Proceedings do not comply with the Act

38. As discussed above, this motion is an extension of CannTrust's unfair treatment of Mr. Aceto. He has been unfairly singled out as being responsible for CannTrust's legal problems, deprived of his rights to indemnification, and left with a choice between a coercive "take it or leave it" settlement framework in the RSA and CCAA Plan or defending the Pending Litigation on an altered landscape, with the Applicants cooperating with the plaintiffs. As a result of the Applicants' approach, these CCAA proceedings have been carried out without any consideration for Mr. Aceto's rights and without any due process in respect of Mr. Aceto's claims.

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[22] *Nova Metal Products Inc. v Comiskey* (Trustee of), 1990 CarswellOnt 139 (CA) at para 90, Brief of Authorities of Peter Aceto ("**Brief of Authorities**") at Tab 1.
[23] *Target Canada Co., Re*, 2016 ONSC 316 at paras 68-73, Brief of Authorities at Tab 2.

39. The Mediation process is unresolved, and in addition to Mr. Aceto, it appears that other Non-Settling Defendants remain committed to reaching a global settlement. This Meeting Motion is premature and, viewed in the context of the Applicants' conduct, has clearly been brought in an artificially compressed timeframe to obtain a tactical advantage over Mr. Aceto and the other Non-Settling Defendants who will be prejudiced by the CCAA Plan.[24]

The CCAA Plan does not comply with the Act

40. This CCAA Plan fails to comply with key provisions of the Act. In particular, according to the CCAA Plan certain directors will be provided with full releases in respect of the Pending Litigation while Mr. Aceto has been denied indemnification and will not be released. As discussed below, this scheme is fundamentally unfair. Moreover, the Applicants' attempt to compromise certain equity claims by enjoining other persons who are not parties to the CCAA Plan from commencing actions against settling Directors is a clear and deliberate attempt by the Applicants to circumvent section 5.1(2) of the Act.

The CCAA Plan is Fundamentally Unfair

41. The CCAA Plan is fundamentally unfair to Mr. Aceto and the other Non-Settling Defendants. First, the CCAA Plan contravenes the *pari passu* principle by failing to treat like equity claims as like.[25] As illustrated by the chart at Schedule "C", Mr. Aceto's Equity Claims will be eliminated pursuant to the CCAA Plan without Mr. Aceto having the right to vote at the meeting. In contrast, other Officers, Directors, and members of CannTrust's senior management will be released from the Pending Litigation.

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[24] *Crystallex International Corp., Re,* 2013 ONSC 823 at para 13, Brief of Authorities at Tab 3.
[25] *Nortel Networks Corp.*, *Re*, 2015 ONCA 681 at para 23, Brief of Authorities at Tab 4.

42. There is no principled basis for distinguishing between those directors and officers that are released and those that are not. The Applicants have unilaterally made this determination. At such a preliminary stage of the litigation, the Court cannot possibly assess whether this discriminatory treatment is fair.

43. In addition to the foregoing, the CCAA Plan is unfair insofar as it does not maintain a level playing field in respect of Mr. Aceto's defence of the Pending Litigation.[26] As discussed above, the CCAA Plan and the RSA create incentives for CannTrust and the plaintiffs to the Pending Litigation to cooperate and continue CannTrust's efforts to portray Mr. Aceto as being responsible for all the Company's alleged transgressions. Nor does the CCAA Plan make any reference to the Applicants having any obligations to produce documents and make witnesses available to Mr. Aceto and the other Non-Settling Defendants in the Pending Litigation.

PART IV - ORDER REQUESTED

44. Mr. Aceto respectfully requests that this Court dismiss the Applicants' motion to set the Meeting.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 18th day of March, 2021.

Alistair Crawley

Jonathan C. Preece

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[26] *Endean v St. Joseph's General Hospital*, 2019 ONCA 181 at para 52, Brief of Authorities at Tab 5.

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SCHEDULE "A"

LIST OF AUTHORITIES

1. *Nova Metal Products Inc. v Comiskey (Trustee of)*, 1990 CarswellOnt 139 (CA)

2. *Target Canada Co., Re*, 2016 ONSC 316

3. *Crystallex International Corp., Re*, 2013 ONSC 823

4. *Nortel Networks Corp., Re,* 2015 ONCA 681

5. *Endean v St. Joseph's General Hospital*, 2019 ONCA 181

SCHEDULE "B"

TEXT OF STATUTES, REGULATIONS & BY-LAWS

Companies' Creditors Arrangement Act, R.S.C., 1985, c. C-36

Compromise with unsecured creditors

4 Where a compromise or an arrangement is proposed between a debtor company and its unsecured creditors or any class of them, the court may, on the application in a summary way of the company, of any such creditor or of the trustee in bankruptcy or liquidator of the company, order a meeting of the creditors or class of creditors, and, if the court so determines, of the shareholders of the company, to be summoned in such manner as the court directs.

Compromise with secured creditors

5 Where a compromise or an arrangement is proposed between a debtor company and its secured creditors or any class of them, the court may, on the application in a summary way of the company or of any such creditor or of the trustee in bankruptcy or liquidator of the company, order a meeting of the creditors or class of creditors, and, if the court so determines, of the shareholders of the company, to be summoned in such manner as the court directs.

Claims against directors — compromise

5.1 (1) A compromise or arrangement made in respect of a debtor company may include in its terms provision for the compromise of claims against directors of the company that arose before the commencement of proceedings under this Act and that relate to the obligations of the company where the directors are by law liable in their capacity as directors for the payment of such obligations.

Exception

(2) A provision for the compromise of claims against directors may not include claims that

(a) relate to contractual rights of one or more creditors; or

(b) are based on allegations of misrepresentations made by directors to creditors or of wrongful or oppressive conduct by directors.

Powers of court

(3) The court may declare that a claim against directors shall not be compromised if it is satisfied that the compromise would not be fair and reasonable in the circumstances.

SCHEDULE "C"

SUMMARY OF THE TREATMENT OF OFFICERS, DIRECTORS AND SENIOR MANAGEMENT UNDER THE PROPOSED CCAA PLAN

Party	Position/ Former Position	Treatment under CCAA Plan
Peter Aceto	Former CEO	No release, no indemnification, no vote.
Eric Paul	Former CEO, and former Chairman of the Board and Special Advisor to CannTrust's management team.	No release, no indemnification, no vote.
Stanley Abramowitz	Officer	No release, no indemnification, no vote.
Ian Abramowitz	Vice President, former CFO	No release, no indemnification, no vote.
Mark Litwin	Director	No release, no indemnification, no vote.
Greg Guyatt	Former CFO and current CEO	Released.
Robert Marcovitch	Director and former Chair of the Special Committee	Released.
Mitchell Sanders	Director	Released.
Mark Dawber	Director, former Chair of the Audit Committee and former Chair of the Special Committee	Released.
Ilana Platt	Former Vice-President of Innovation and Regulatory Affairs and current Chief Regulatory Officer	Released.
John Kaden	Director	Released.
Shawna Page	Director	Released.

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