

**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
TGF ACQUISITION PARENT LTD., 1120499 B.C. LTD. & 1127360 B.C. LTD.**

(Applicants)

**MOTION RECORD
(Returnable August 27, 2021)**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Joseph Reynaud
Tel: (514) 397-3019
E-mail: jreynaud@stikeman.com

Danny Duy Vu
Tel: (514) 397-6495
E-mail: ddvu@stikeman.com

Lee Nicholson LSO #664121
Tel: (416) 869-5604
Email: leenicholson@stikeman.com

Lawyers for the Applicants

**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
TGF ACQUISITION PARENT LTD., 1120499 B.C. LTD. & 1127360 B.C. LTD.**

(Applicants)

I N D E X

TAB NO.	DOCUMENT	PAGE NO.
1.	Notice of Motion returnable August 27, 2021	1-8
2.	Draft Order	9-13

TAB 1

Court File No. CV-21-00657098-00CL

**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
TGF ACQUISITION PARENT LTD., 1120499 B.C. LTD. & 1127360 B.C. LTD.**

(Applicants)

**NOTICE OF MOTION
(Returnable August 27, 2021)**

The Applicants will make a motion to the Honourable Justice Hailey of the Ontario Superior Court of Justice (Commercial List) on **August 27, 2021** at **9:30 A.M. EST.**

PROPOSED METHOD OF HEARING: Due to the ongoing COVID-19 pandemic, the motion is to be heard via video conference, the details of which can be found in **Schedule "A"** to this Notice of Motion. If you intend to join the hearing on this Motion, please advise Mr. Nicholas Avis of Stikeman Elliott LLP by email at navis@stikeman.com.

THE MOTION IS FOR:

1. An Order:
 - (a) Extending the stay period (the "**Stay Period**") to the CCAA Termination Time (as defined below) is filed; and
 - (b) Approving additional fees and activities of the Monitor.
2. Such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THIS APPLICATION ARE:

Background

3. The Applicants, TGF Acquisition Parent Ltd., 1120499 B.C. Ltd. (f/k/a Sun Rich Fresh Foods Inc.) ("**Old Sun Rich Canada**") and 1127360 B.C. Ltd. (f/k/a Tiffany Gate Foods

Inc.) (“**Old Tiffany Gate**”) are part of a group of companies known as the Fresh Food Group (“**FFG**”).

4. On February 15, 2021, certain of the Applicants’ U.S. affiliates filed voluntary petitions commencing parallel insolvency proceedings before the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the “**US Court**”) under chapter 11 of title 11 of the United States Bankruptcy Code (the “**Bankruptcy Code**”);
5. On February 17, 2021, the Ontario Superior Court of Justice (Commercial List) (the “**Canadian Court**”) granted an Initial Order (as amended and restated, the “**Initial Order**”) in favour of the Applicants.
6. On March 1, 2021, the Canadian Court granted an order approving certain bidding procedures which authorized the Applicants to complete a sales and investment solicitation process;
7. On March 26, 2021, the Court granted two separate Approval and Vesting Orders that approved sale transactions with Save-On Foods Limited Partnership (“**Save-On**”) and Homestyle Selections LP (“**Homestyle**” and together with Save-On, the “**Canadian Buyers**”) for the assets of the Applicants;
8. On April 13, 2021, the Canadian Court granted an order (the “**Distribution Order**”) authorizing the Monitor to make periodic distributions from the net sale proceeds to the Applicants’ secured lenders (the “**Lenders**”) subject to certain reserves established by the Monitor necessary for the wind-down of the CCAA Proceedings and affairs of the Applicants;
9. On April 15, 2021, the sale transactions with the Canadian Buyers closed;
10. On June 22, 2021, the Canadian Court granted an order (the “**Wind-Down Order**”) which, among other things:
 - (a) Provided for the termination and discharge of the CCAA Proceedings upon the Monitor filing a termination certificate (the “**CCAA Termination Time**”);

- (b) Extended the Stay Period to the earlier of the CCAA Termination Time and August 31, 2021 while the Applicants and the Monitor complete certain activities related to the wind-down of their estates (the “**Wind-Down Activities**”); and
- (c) Approved the fees of the Monitor and its counsel incurred in these CCAA proceedings, including an estimate to the CCAA Termination Time.

The Extension of the Stay Period

11. The Applicants are requesting the Stay Period be extended to the CCAA Termination Time;
12. Since the issuance of the Wind-Down Order, the Applicants and the Monitor have been working on completion of the Wind-Down Activities, however, certain challenges with the Wind-Down Activities have arisen, including:
 - (a) The Canadian Buyers were not able to transition from using the Applicants’ bank accounts by June 30, 2021 and one of the Canadian Buyers continues to use the Applicants’ bank accounts in the operation of its business;
 - (b) Certain employees of the U.S. affiliates of the Applicants were terminated following the appointment of a trustee under chapter 7 of the Bankruptcy Code;
 - (c) The Canada Revenue Agency (“**CRA**”) continues to hold HST refunds related to the post-filing period;
13. The extension of the Stay Period will permit the Applicants and the Monitor to continue carrying out the Wind-Down Activities and complete additional work necessary to make further distributions to the Lenders, including reconciliations related to the sale transactions and funds in the Applicants’ bank accounts;
14. The extension of the Stay Period to the CCAA Termination Time will also permit the Applicants and the Monitor to finish the Wind-Down Activities without expending further resources on uncontroversial motions before the Canadian Court;
15. The cash flow projections (the “**Cash Flow Statement**”) to be filed with the Monitor’s report for the period up to November 28, 2021, will demonstrate that the Applicants

expect that they will have sufficient cash to fund their projected operating costs during such period;

16. The Applicants continue to act with good faith and due diligence;

Approval of Monitor's Fees and Activities

17. As contemplated by the Wind-Down Order, the Monitor estimated aggregate additional fees and disbursements for the Monitor and its counsel to the completion and termination of the Wind-Down Activities in the amount of approximately \$425,000, before HST (the "**Estimated Fees**");
18. As result of the delays and complications described above and in the Monitor's Fifth Report (to be filed), the Monitor has expended greater time and cost than anticipated;
19. The Monitor is requesting approval of an additional \$180,000 plus HST (the "**Additional Estimated Fees**") in order to complete the Wind-Down Activities;
20. The Applicants are supportive of approval of the Additional Estimated Fees and approval of the activities described in the Fifth Report;
21. Approval of the Monitor's activities and fees is appropriate in the circumstances;

Other Grounds

22. The provisions of the CCAA, including section 11, section 11.02(2), and the inherent and equitable jurisdiction of this Honourable Court;
23. The provisions of the Rules of Civil Procedure, RRO 1990, Reg. 194, including rules 2.03, 3.02 and 37 thereof; and
24. Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

- a. the Fifth Report of the Monitor, to be filed; and

- b. such further and other evidence as counsel may advise and this Honourable Court may permit.

August 23, 2021

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Joseph Reynaud
Tel: (514) 397-3019
E-mail: jreynaud@stikeman.com

Danny Duy Vu
Tel: (514) 397-6495
E-mail: ddvu@stikeman.com

Lee Nicholson LSO #66412I
Tel: (416) 869-5604
Email: leenicholson@stikeman.com

Lawyers for the Applicants

SCHEDULE A

ZOOM MEETING DETAILS

Join Zoom Meeting

<https://us06web.zoom.us/j/86424120289?pwd=ZkVoejJWYUt3WlF1dC91bHQ1N3dMdz09>

Meeting ID: 864 2412 0289

Passcode: 738939

One tap mobile

+17789072071,,86424120289#,,, *738939# Canada

+12042727920,,86424120289#,,, *738939# Canada

Dial by your location

+1 778 907 2071 Canada

+1 204 272 7920 Canada

+1 438 809 7799 Canada

+1 587 328 1099 Canada

+1 647 374 4685 Canada

+1 647 558 0588 Canada

Meeting ID: 864 2412 0289

Passcode: 738939

Find your local number: <https://us06web.zoom.us/j/86424120289?pwd=ZkVoejJWYUt3WlF1dC91bHQ1N3dMdz09>

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985,
c. C-36, AS AMENDED**

Court File No. CV-21-00657098-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF TGF ACQUISITION PARENT LTD., 1120499 B.C. LTD. & 1127360 B.C. LTD.**

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

Proceeding commenced at Toronto

NOTICE OF MOTION

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Joseph Reynaud
Tel: (514) 397-3019
E-mail: jreynaud@stikeman.com

Danny Duy Vu
Tel: (514) 397-6495
E-mail: ddvu@stikeman.com

Lee Nicholson LSO#: 664121
Tel: (416) 869 5604
E-mail: leenicholson@stikeman.com

Lawyers for the Applicants

TAB 2

Court File No. CV-21-00657098-00CL

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

THE HONOURABLE MR.	)	FRIDAY, THE 27 th
	)	
JUSTICE HAINEY	)	DAY OF AUGUST, 2021

**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 TGF
ACQUISITION PARENT LTD., 1120499 B.C. LTD. & 1127360 B.C. LTD.**

ORDER

THIS MOTION, made by the TGF Acquisition Parent Ltd., 1120499 B.C. Ltd. (f/k/a Sun Rich Fresh Foods Inc.), and 1127360 B.C. Ltd. (f/k/a Tiffany Gate Foods Inc.) (collectively, the “**Applicants**”) pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) for an Order substantially in the form included at Tab 3 of the Motion Record was heard this day via video-conference due to the ongoing COVID-19 pandemic.

ON READING the Fifth Report of Ernst & Young Inc., in its capacity as Monitor of the Applicants (the “**Monitor**”); and

UPON HEARING the submissions of counsel for the Applicants, counsel for the Monitor, and other counsel as listed on the Counsel Slip, no one else appearing for any party although duly served as appears on the affidavits of service of Lee Nicholson, 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.

STAY PERIOD

2. **THIS COURT ORDERS** that the stay period referred to in the Initial Order of the Honourable Justice Hainey dated February 17, 2021 (as amended and restated on February 26, 2021, the “**Initial Order**”) is extended until the CCAA Termination Time (as defined in the Wind-Down Order of this Court dated June 22, 2021 (the “**Wind-Down Order**”)).

APPROVAL OF FEES AND ACTIVITIES

3. **THIS COURT ORDERS** that the Fifth Report of the Monitor dated August 20, 2021, and the activities and the conduct of the Monitor described therein is hereby approved.

4. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel, in addition to those approved in the Wind-Down Order, that have been or will be incurred in performance of the duties of the Monitor up to CCAA Termination Time are hereby authorized and approved for the Monitor and its counsel up to a maximum of CDN\$180,000 plus any applicable taxes and disbursements in the aggregate.

GENERAL

5. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

6. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order without any need for filing or entry.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF
ACQUISITION PARENT LTD., 1120499 B.C. LTD. & 1127360 B.C. LTD.

	ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) Proceeding commenced at Toronto
	ORDER STIKEMAN ELLIOTT LLP Barristers & Solicitors 5300 Commerce Court West 199 Bay Street Toronto, Canada M5L 1B9 Joseph Reynaud Tel: (514) 397-3019 E-mail: jreynaud@stikeman.com Danny Duy Vu Tel: (514) 397-6495 E-mail: ddvu@stikeman.com Lee Nicholson LSO#: 664121 Tel: (416) 869 5604 E-mail: leenicholson@stikeman.com Lawyers for the Applicants

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985,
c. C-36, AS AMENDED**

Court File No. CV-21-00657098-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF TGF ACQUISITION PARENT LTD., 1120499 B.C. LTD. & 1127360 B.C. LTD.**

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

Proceeding commenced at Toronto

**MOTION RECORD
(RETURNABLE AUGUST 27, 2021)**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Joseph Reynaud
Tel: (514) 397-3019
E-mail: jreynaud@stikeman.com

Danny Duy Vu
Tel: (514) 397-6495
E-mail: ddvu@stikeman.com

Lee Nicholson LSO#: 664121
Tel: (416) 869 5604
E-mail: leenicholson@stikeman.com

Lawyers for the Applicants