No. S=237444
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

ALIREY CORP.

PETITIONER

AND

2716725 ONTARIO INC., 10111132 MANITOBA LTD. (DBA MEDNOW MB), MEDNOW CLINIC SERVICES INC., MEDNOW INC., MEDNOW EAST INC., MEDNOW MEDICAL INC., MEDNOW ONTARIO LIMITED, MEDNOW PHARMACY AB LTD., MEDNOW OPERATIONS INC., MEDNOW PHARMACY INC., MEDNOW PHARMACY MB LTD., MEDNOW PHARMACY SERVICES INC., MEDNOW TECHNOLOGY INC., MEDNOW VIRTUAL CARE LTD.

RESPONDENTS

PETITION TO THE COURT

ON NOTICE TO:

2716725 Ontario Inc.
73 Larabee Crescent
North York, ON, M3A 3E6

10111132 Manitoba Ltd. (Dba Mednow Mb)
30th Floor - 360 Main Street
Winnipeg, MB R3C 4G1

Mednow Clinic Services Inc.
10th floor, 595 Howe Street
Vancouver, BC, V6C 2T5

Mednow Inc.
10th floor, 595 Howe Street
Vancouver, BC, V6C 2T5

Mednow East Inc.
346 Millway Avenue, Suite 9 & 10
Concord, ON, L4K 3W1

Mednow Medical Inc.
595 Howe Street, 10th Floor
Vancouver, BC, V6C 2T5

Mednow Ontario Limited
346 Millway Avenue, Unit 9,
Concord, ON L4K 3W1

Mednow Pharmacy AB Ltd.
629 Eastern Avenue
Toronto, Ontario, M4M 1E3

Mednow Operations Inc.
595 Howe Street, 10th Floor
Vancouver, BC, V6C 2T5

Mednow Pharmacy Inc.
595 Howe Street, 10th Floor
Vancouver, BC, V6C 2T5

Mednow Pharmacy MB Ltd.
584 St. Mary Street,
Winnipeg, MB, R2M 3L5

Mednow Pharmacy Services Inc.
595 Howe Street, 10th Floor
Vancouver, BC, V6C 2T5

Mednow Technology Inc.
595 Howe Street, 10th Floor
Vancouver, BC, V6C 2T5

Mednow Virtual Care Ltd.
595 Howe Street, 10th Floor
Vancouver, BC, V6C 2T5

This proceeding has been started by the petitioner(s) for the relief set out in Part 1 below.

If you intend to respond to this petition, you or your lawyer must

(a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and

(b) serve on the petitioner(s)

(i) 2 copies of the filed response to petition, and
(ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner(s),

(a) if you were served with the petition anywhere in Canada, within 21 days after that service,
(b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
(c) if you were served with the petition anywhere else, within 49 days after that service, or, and
(d) if the time for response has been set by order of the court, within that time.

(1)	The address of the registry is: 800 Smithe Street Vancouver, BC
(2)	The ADDRESS FOR SERVICE of the petitioner(s) is: Burns Fitzpatrick LLP 400-570 Granville Street Vancouver, BC V6C 3P1 Fax number address for service (if any) of the petitioner(s): 604-685-2104 E-mail address for service (if any) of the petitioner(s): dfitzpatrick@burnsfitz.com
(3)	The name and office address of the petitioner(s)'s lawyer is: Attention: Dennis K. Fitzpatrick Burns Fitzpatrick LLP 400 – 570 Granville Street Vancouver, BC V6C 3P1

CLAIM OF THE PETITIONER(S)

Part 1: ORDER(S) SOUGHT

1. An order pursuant to Rule 8-5(1) that the petition be heard on short notice.

2. An order that the time period set out in section 244 of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. 13-3 (the "BIA") be abridged in accordance with section 243(1.1)(b).

3. A declaration that service on each respondent may be made by leaving a copy at the address of each respondent who signed each general security agreement in accordance with Rule 4 and section 72 of the (the "PPSA") issued.

4. An order:

   a. pursuant to section 243 of the BIA and section 39 of the Law and Equity Act, R.S.B.C. 1996, c. 253 (the "LEA") and section 63(2)(e) and 66 of the PPSA, substantially in the form (blacklined from the model order) set out in **Annexure "A"** hereto, appointing Ernst & Young Inc. as receiver and manager, without security; or

   b. in the alternative, appointing an interim receiver pursuant to section 47(1) of the BIA,

   of all of the businesses, assets, undertakings and property of each of the respondents as secured by the general security agreements held by the petitioner over the assets of the respondents (collectively, the "Property") which order shall include without limitation the powers and duties, stay of proceeding, directors, borrowing and administration and other charges as set out in Annexure A.

5. A declaration that the general security agreements dated February 8, 2023 and August __, 2023 described collectively in **Annexure "B"** to this petition (the "GSAs") docusigned by each respondent to Alirey Corp. as of February 2023, in respect of which financing statements were filed (i) in the BC Personal Property Registry ("PPR") under base registration numbers 329687P, 694365P, and 720389P; and (ii) in the Ontario PPR under registration numbers 20210623 0958 1219 1423 (delivery vehicle) and 20220615 1008 5064 9881 (pill machine), constitute a charge in favour of Alirey Corp. on all present and after acquired personal property issued by each of the respondents in this petition.

6. A declaration that the respondents are in default of their obligations under the GSAs and the Guarantees (hereinafter defined).

7. A declaration that the amounts owing to Alirey Corp. by each respondent in accordance with its guarantee as secured under the GSAs are due and owing.

8. A declaration as to the amount of money required to redeem the Property.

9. Judgment against Mednow Inc. in an amount to be determined, together with interest accruing thereon and the petitioner's costs of and related to this proceeding.

10. Judgment against 2716725 Ontario Inc. in an amount to be determined, together with interest accruing thereon and the petitioner's costs of, and related to, this proceeding.

11. Judgment against 10111132 Manitoba Ltd. (dba Mednow MB) in an amount to be determined, together with interest accruing thereon and the petitioner's costs of and related to this proceeding.

12. Judgment against Mednow Clinic Services Inc. in an amount to be determined, together with interest accruing thereon and the petitioner's costs of and related to this proceeding.

13. Judgment against Mednow East Inc. in an amount to be determined, together with interest accruing thereon and the petitioner's costs of and related to this proceeding.

14. Judgment against Mednow Medical Inc. in an amount to be determined, together with interest accruing thereon and the petitioner's costs of and related to this proceeding.

15. Judgment against Mednow Ontario Limited in an amount to be determined, together with interest accruing thereon and the petitioner's costs of and related to this proceeding.

16. Judgment against Mednow Pharmacy AB Ltd. in an amount to be determined, together with interest accruing thereon and the petitioner's costs of and related to this proceeding.

17. Judgment against Mednow Operations Inc. in an amount to be determined, together with interest accruing thereon and the petitioner's costs of and related to this proceeding.

18. Judgment against Mednow Pharmacy Inc. in an amount to be determined, together with interest accruing thereon and the petitioner's costs of and related to this proceeding.

19. Judgment against Mednow Pharmacy MB Ltd. in an amount to be determined, together with interest accruing thereon and the petitioner's costs of and related to this proceeding.

20. Judgment against Mednow Pharmacy Services Inc. in an amount to be determined, together with interest accruing thereon and the petitioner's costs of and related to this proceeding.

21. Judgment against Mednow Technology Inc. in an amount to be determined, together with interest accruing thereon and the petitioner's costs of and related to this proceeding.

22. Judgment against Mednow Virtual Care Ltd. in an amount to be determined, together with interest accruing thereon and the petitioner's costs of and related to this proceeding.

23. An order that the receiver may issue public notice that the prescription services or medical services offered by the respondents may continue uninterrupted.

24. An order that the receiver be authorized and directed to initiate a sale and investment solicitation process ("SISP") for respondents' assets, goodwill, intellectual property and operations inviting responses from any and all parties including shareholders or creditors of the respondents.

25. An order that the receiver be authorized to receive, review, negotiate report upon a Stalking Horse Bid or credit bid initiated by the parties associated with the petitioner.

26. An order that if the Property is not redeemed, the petitioner shall be at liberty to apply for an order absolute or conduct of sale, and on pronouncement of an order absolute or a vesting order, then the respondents and their heirs, executors, administrators, successors and assigns of the respondents and all persons claiming by, through or under them shall be foreclosed of all right, title, interest, estate and equity of redemption in and to the Property and shall immediately deliver to the petitioner vacant possession of the Property secured by the GSAs.

27. An order for the aid and recognition of other Canadian and foreign courts, tribunals, regulatory or administrative bodies, including Ontario and Quebec and any court or administrative act in aid of and to be complementary to this court in carrying out the terms of this order where required or to assist the petition and the Receiver and their respective agents in carrying out the terms of this order.

28. An order that the petitioner be granted liberty to apply to this honourable court or to the district registrar of this honourable court for a further summary accounting of any amounts which become due to the petitioner for interest, taxes, insurance premiums, costs, charges, expenses or otherwise after the pronouncement of any order made herein.

29. Costs of this action on a solicitor and own client basis or, alternatively, on such basis as this honourable court may deem just.

30. Such further relief as the circumstances may require and as this honourable court deems appropriate.

List of Annexures

Annexure A	Draft Order
Annexure A-1	Receiver Certificate
Annexure B	List of General Security Agreements

Part 2: FACTUAL BASIS

1. The petitioner is a British Columbia/Ontario company owned and controlled by Amir Ali Reyhany-Bozorg.

Business

2. Mednow Inc. is a publicly traded healthcare technology company with 19 subsidiaries and affiliates (collectively "Mednow Group") offering virtual access through online accessibility. Mednow provides virtual pharmacy and telemedicine services as well as doctor home visits through an interdisciplinary approach to healthcare. Mednow's services include at-home delivery of medications, nurse practitioner and doctor consultations both online and in a patient's home, and a digital interface to transfer and refill prescriptions and get consultation from pharmacists related to prescriptions and overall pharmacy needs via chat.

3. Mednow Group has been in the process of virtual pharmacy growth. "Mednow Phamacy" is the online application where consumers can buy prescriptions and over the counter drugs. It has completed the "build phase" but has suffered from growth and liquidity issues.

4. Mednow Inc. is the holdco for the group. Each of 17 other entities is directly or indirectly a 100% subsidiary of Mednow Inc. with the exception of Mednow Virtual Care Ltd. which is owned 70% by Mednow Inc. and 15% by each of 2836508 Ontario Inc. and 1770870 Ontario Inc.

5. Mednow Pharmacy Inc. operates the bricks and mortar online pharmacy at 4484 Main Street, Vancouver, BC.

6. Mednow Operations Inc. is a structural holdco that does not maintain independent accounting but owns all of the shares of Mednow Medical Inc.

7. Mednow Medical Inc. is a structural holdco that does not maintain independent accounting but owns all of the shares of 2716725 Ontario Inc. (Medvisit).

8. 2716725 Ontario Inc. (Medvisit) operates the doctor home visit business at 505 Consumers Road, Toronto, ON with a call centre.

9. Mednow Pharmacy Services Inc. is a structural holdco that does not maintain independent accounting but owns all of the shares of Mednow Ontario Limited.

10. Mednow Ontario Limited operated the online and bricks and mortar drugstore which: (i) was previously located at 629 Eastern Avenue, Toronto, ON; (ii) Mednow Ontario Limited vacated that site as of June 30, 2023; and (iii) Mednow Ontario Limited now operates the store at 1640 Bloor Street, Toronto, ON.

11. Mednow Virtual Care Ltd. is a business that conducts virtual health consultations with patients across British Columbia, Alberta and Ontario. Mednow Virtual Care Ltd. utilised a team of nurse practitioners to engage with patients and facilitate easy access to health care and subsequent access to pharmacy services via the Mednow app.

12. Mednow Quebec operates the online and bricks and mortar drugstore which is located at 101 4800 rue Dobrin, Saint-Laurent, QC; through a franchisee in accordance with a franchise agreement dated 24 April 2023.

13. Mednow Pharmacy MB Ltd. operated a pharmacy at 584 St. Mary's Road, Winnipeg. Its business was discontinued in the summer of 2022.

14. Mednow Technology Inc. is a company that is a structural holdco that does not maintain independent accounting but was created to hold intellectual property for the Mednow Group but no longer performs that function.

15. Mednow Clinic Services Inc. operated and discontinued a clinic business in Ontario and now owns all of the shares of Liver Care Canada Inc., now bankrupt.

16. Mednow East Inc. previously operated a pharmaceutical business in Ontario at 629 Eastern Avenue, Toronto, ON and has discontinued business.

17. Mednow Pharmacy (NS) Ltd. operated the online and bricks and mortar pharmacy store at 842 Portland Street, Dartmouth, NS under a lease with Parkton Wellness Limited until the summer of 2022 when it discontinued business.

18. Mednow Pharmacy (AB) Ltd. operated the online and bricks and mortar pharmacy store at 38-3250 Sunridge Way, Calgary, AB under a lease with Dream Industrial LP which never commenced operations. Mednow Pharmacy (AB) Ltd. The landlord has made a claim for approximately $1 million.

19. Mednow has three remaining rented bricks and mortar locations in Canada where there are operating stores:

    a. 101-4484 Main Street, Vancouver, BC, V5V 3R3

    b. 4800 rue Dobrin, suite 101, Saint-Laurent, QC, H4R 2P8

    c. 1640 Bloor St. West Toronto, ON, M6P 1A7

20. In each of the existing bricks and mortgage stores, drugstore products are sold and prescriptions are filled online and in person. The following leases apply to these stores:

    a. Mednow Pharmacy Inc. is the tenant of leasehold premises at 101-4484 Main Street, Vancouver, BC in accordance with a lease commencing January 1, 2022 and expiring on December 31, 2027 containing a restriction on assignment as set out in paragraph 5.12 thereof and as at October 20, 2023 is current for monthly instalments of rent;

    b. Mednow East Inc. is the tenant of leasehold premises at 1640 Bloor Street, Toronto, ON in accordance with an amending agreement to lease commencing September 15, 2020 and expiring on February 28, 2025 containing a restriction on assignment as at October 26, 2023 current for monthly installments of rent.

    c. Mednow Inc. is the tenant of leasehold premises at 4800 rue Dobrin, suite 101, Saint-Laurent, QC in accordance with a lease commencing January 27, 2022 and expiring on January 27, 2027 containing a restriction on assignment as set out in paragraph 12.10 thereof and as at October 20, 2023 is current for monthly instalments of rent. The tenant disputes a claim for leasehold improvements made by the landlord to the amount of approximately 100,000.

21. Mednow Inc. is the tenant of leasehold premises at 505 Consumers Road, Toronto, ON which houses offices and call centre for home doctor visits in accordance with a lease commencing October 22, 2021 and expiring on December 31, 2024 containing a restriction on assignment as set out in paragraph 19 thereof and as at October 20, 2023 is current for monthly instalments of rent.

22. The following leases are in default:

    a. 38-3250 Sunridge Way, Calgary, AB under a lease dated January 18, 2022 between Dundee Flex Properties Inc. and Mednow Inc.;

    b. 584 St. Mary's Road, Winnipeg, MB under a lease dated April 21, 2021 between AC Investment Ventures and Mednow Pharmacy MB Ltd.; and

    c. 629 Eastern Avenue, Toronto, ON under a lease dated October 21, 2021 between Eastern Avenue Studio's Inc. and Mednow Inc.

23. In March 2021 after an initial public offering, Mednow undertook a high-growth strategy including acquisitions, multiple sales channels, various business lines and Canada wide geographies including the establishment of both technology and

bricks and mortar assets. It had exponential revenue growth recording a quarterly revenue of $12.8 million as of April 30, 2023 for all of the 17 subsidiaries.

24. Since 2021, both (i) the shift in the macroeconomic conditions for venture companies funding prospects; and (ii) the high costs associated with Mednow growth goals, made it difficult for Mednow to secure capital. There were multiple failed attempts to raise adequate capital both publicly and by way of private placement. Some of Mednow's underperforming subsidiaries failed which caused the company to wind down operating assets and drastically reduce costs. The remaining members of the Mednow Group will continue the development of its organic virtual pharmacy business which had launched its new proprietary version of its technology in march of 2022.

25. Annualized monthly revenue for the Virtual pharmacy revenue grew 720% from January 2021 to January 2023, from $500,000 to $4.1 million on an annualised basis. User growth has been strong with Mednow app registrations at 17,000 and pharmacy patients of 8,000 as of May 2023 (up approximately 700% from 1,000 pharmacy patients in January 2022).

<u>Operating Results</u>

26. The most recent quarterly report was filed in 30 April 2023 which demonstrates an overall shareholder deficit and a net operating loss but increasing sales and gross revenues. Revenue was at approximately $12 million per quarter in the current fiscal year. Since, London Pharmacare Inc., Infusicare Canada Inc. and Liver Care Canada Inc. have commenced liquidation, in separate proceedings, the annual sales number is reduced to approximately $5 million.

<u>Intellectual Property</u>

27. Mednow's Pillsmart is a trademarked system that packages prescriptions in easy-to-use daily dose packs each labeled with the date and time of the next dose. Mednow Inc. has trademarks registered for:

    a. Pillsmart and Pill Smart filed April 26, 2020 under number 2024631 and for Pillsmart Medication Made Simple and Pill Smart filed February 8, 2021 under number 2083193; and

    b. Mednow and Med Now filed April 12, 2018 under number 1893348 and filed March 31, 2020 under number 2020371.

28. Mednow technology assets are accessed at https://mednow.ca/ as well as on applications available on Android and IOS. Mednow used part of the capital from the IPO to develop from its initial web based applications into what management believes is one of the Canadian pharmacy industry's leading pharmacy technology platforms. The modern retail pharmacy solution available today primarily consists

of a web, IOS and Android versions of: (i) the patient Mednow app; and (ii) The Mednow Virtual Pharmacy Management system, which transform a non-digital pharmacy into a virtual pharmacy, alone or part of a network.

Public Offering

29. On or about March 4, 2021, the respondent Mednow completed a public offering of its shares. Mednow Inc. commenced trading March 9,2021. Save for and except for delivery of financial statements in January 2023, it has complied with all material regulatory requirements.

Shareholders

30. The principal shareholders of Mednow are as follows:

Shareholder	**No of shares**	**% of holding**
Amir Ali Reyhany Bozorg (and Related Companies)	4,549,112	17.60%
Felipe Campusano (and Related Companies)	3,210,555	12.40%
Care Health Inc.	2,909,901	11.30%
	7,759,667	**41.3%**

The balance of 58.70% is widely held.

31. There were four directors of the corporate group. Filipe Compusano, Kia Besharat, Mahdi Shams and Amir Ali Reyhany-Bozorg who was chief executive officer, president and director of Mednow. All have resigned as directors of the company.

32. Amir Ali Reyhany-Bozorg holds the following: (i) 4,549,112 common shares; (ii) options to purchase 240,000 shares at $1.75 and 60,000 shares at 1.85; (iii) 1,111,112 warrants; and (iv) secured convertible debentures under which Alirey can convert to equity on specified terms.

33. The Mednow respondents to this Petition do not have operating bank financing. Secured on all present and after acquired personal property. There are purchase money security interests on a vehicle and machinery.

34. In spring of 2022 it was evident that the company would at some point in the future need to raise more money and company embarked on a company-led process in which approximately 5-7 industry strategic pharmacy partners were solicited for investment into the Mednow business which yielded no capital

35. In late 2022, the Mednow group went to the public for operating financing. It offered convertible debentures but received no material subscriptions. Amir Ali Reyhany-Bozorg agreed to provide funding.

36. In January of 2023 the company engaged legal counsel and major accounting firm to assist in capitalizing the company with private debt lenders. The major accounting firm prepared a teaser and approached multiple lenders in Canada in order to secure the company financing and was unsuccessful in receiving any offers.

37. In January of 2023, the company also engaged a major and well-known Toronto based investment bank to seek both an investment and/or an en bloc sale of all the assets marketed to other industry strategic investors and high net worth individuals and family offices. No capital was raised.

38. On April 24, 2023, the company announced public financing by way of prospectus supplement. The company closed this financing on May 9th with proceeds of approximately $536,262. Subsequent to that, the company also received $585,000 equity financing by way of private placement from Amir Ali Reyhany Bozorg.

39. On or about February 8, 2023, Mednow Inc. issued a $1.8 million convertible debenture to the petitioner. Each of the respondents herein issued General Security Agreements over their assets in support of the debt.

40. On July 31, 2023, the petitioner advanced a further $400,000 in 400 convertible debentures of $1,000 each convertible into units at 30 cents per unit made up of 1 common share and 1 warrant exercisable at 38 cents for eighteen months.

41. Since July 31, 2023, there have been further advances of $850,000 under convertible debentures such that the current balance outstanding is as set out in the demand letters.

42. The convertible debentures provide that each of the respondents will provide a guarantee and GSA over all present and after acquired personal property and shall be responsible with Mednow for the debt with security over all present and after acquired personal property.

43. Other terms of the convertible debenture are the conversion privilege is exercisable when the company completes a financing of $4,000,000: (i) the debentures bear interest at 12% per annum. The interest will be satisfied by the

issuance of common shares at the average price of common shares on the exchange for the five days immediately before the interest payment is due. Interest has/has not been calculated and converted to shares; (ii) all convertible debentures have a right of redemption on sale of all assets; (iii) there is no subordination provision; and (iv) on a change of control, the debenture holder will have a right of redemption on prescribed terms.

44. Not all of the entitles in the Mednow Group have provided security to the Petitioner. In particular:

   a. Mednow Pharmacy NS has not provided security and does not conduct business; and

   b. Livercare Canada Inc., Infusicare Canada Inc., London Pharmacare Inc. Those entitles are subject to insolvency proceedings in Ontario.

Unsecured Creditors

45. In addition to secured indebtedness of $3,206,000 owed by each listed subsidiary to the Petitioners, the total trade payables (calculated to September 30, 2023) of each of the entities current and 90 days are as follows:

	Entity	90 Days	Total
1.	Mednow Inc.	737,307	891,308
2.	Mednow Pharmacy Inc.	63	5,983
3.	Mednow Operations Inc.	n/a	n/a
4.	Mednow Medical Inc.	n/a	n/a
5.	2716725 Ontario Inc. (Medvisit)	99,421	110,102
6.	Mednow Pharmacy Services Inc.	n/a	n/a
7.	Mednow Ontario Limited*	1,540,000	1,540,000
8.	Mednow Virtual Care Ltd.	-498	2,524
9.	Mednow Quebec**	106,319	122,847
10.	Mednow Pharmacy MB Ltd.	3,730	3,730
11.	Mednow Technology Inc.	n/a	n/a
12.	Mednow Clinic Services Inc.		

13.	Mednow East Inc.	172	2,024
14.	Mednow Pharmacy AB Ltd.***	49,998	51,066
15.	Mednow Pharmacy NS Ltd.	14,122	14,755

* The obligations of both Mednow Inc. and Mednow Ontario is a claim for historical supply from Gilead Services Canada, Inc. for $ 1,540,000 for damages for goods delivered.

There are also other potential obligations including those to landlords, a supplier, and employees for termination.

Cash Management

46. The Mednow Group currently manages their cash on a conciliated and pooled basis.

47. While the petitioner maintains separate bank accounts with separate balances for each of the entities, cash is transferred between entities in the ordinary course of business to smooth out the cash flows of each individual entity. There is one control set of accounts for each entity and ensure that intercompany transfers are completed as needed. Surplus and deficiencies are transferred from one entity to another. These intercompany transfers are then documented as intercompany obligations.

Bank Debt

48. There is no operating secured debt to any bank or any other financial institution secured on all present and after acquired personal property. Alirey Corp. has funded the operating cash requirements for Mednow Group. There are two asset specific charges.

Taxes on Income

49. Income tax returns were prepared and filed as required on time for 2022 in February 2023 and no tax remains payable.

Source Deductions

50. Source deductions are current to the last reporting period.

GST

51. GST, HST, PST and Workers Compensation are current to the last reporting period.

Business Going Forward

52. The assets of the Mednow Group are centred on the online pharmaceutical distribution channels which result in the resale of prescription and over the counter drugs to the public. While the brick and mortar locations are necessary to get the product to the consumer, they lessen in importance as the volume of the online business grows.

53. The Petitioner is of the view that it is in the interest of all stakeholders to maintain the business of the Mednow Group. The companies and their creditors will benefit from retaining residual going concern value. The public will benefit from the uninterrupted delivery of medical and pharmaceutical services.

54. Currently, the operating entitles source prescription and over the counter drugs through McKesson Canada and each entitle separates an account on credit terms essential to the continuation of business. It is necessary to the continued operation of the Mednow Group that the credit terms be observed.

Cash Flow

55. The cash flow sets out requirements for funding during receivership.

Cash Flow Deficiency

56. Since the public offering, rapid growth has required cash flow which exceeds the available funding from operations and the public offering. In order to sustain the business and to fulfill its obligations to pharmacy patients and/or app users, the petitioner advanced an aggregate amount of $ 3,050,000 plus interest.

Part 3: LEGAL BASIS

1. The Petitioner relies on:

    a. Rules 1-3, 2-1, 10-2, 13-5, 14-1, 16-1, 21-7 and 22-1 of the Supreme Court Civil Rules;

    b. the BIA, sections 31, 47(1) and 243;

    c. the LEA, R.S.B.C. 1996, c. 253, section 39;

    d. the PPSA, R.S.B.C. 1996, c. 359, sections 63(2)(e) and 66;

e. the inherent jurisdiction of the British Columbia supreme court in bankruptcy;

f. such other legal basis as counsel may advise.

2. The Petitioner applies for an order appointing Ernst & Young Inc. as the receiver of the Property.

3. The Petitioner is a secured creditor of each of the Mednow respondents by virtue of the security interest granted to it by each under the several GSAs. Pursuant to the terms of the Convertible Debenture, Alirey Corp's interest in the Property ranks first in priority there is no other party asserting a security interest in all personal and after acquired personal property on any of the entities joined.

4. Section 63(2)(e) of the PPSA provides:

63(2) Subject to subsection (3), on application of a debtor, a creditor of a debtor, a secured party, a sheriff or a person with an interest in the collateral, a court may make one or more of the following orders:

(e) an order necessary to ensure protection of the interest of <u>any person</u> in the collateral.

5. Section 66 of the PPSA provides:

Court supervision of receiverships and exemption from compliance

66(1) On application by an interested person, a court may do one or more of the following:
(a) appoint any person a receiver who is not disqualified under section 64 (2);
(b) remove, replace or discharge a receiver, whether appointed by a court or in accordance with a security agreement;
(c) give directions on any matter relating to the duties of a receiver;
(d) approve the accounts and fix the remuneration of a receiver;
(e) despite anything contained in a security agreement or other document providing for the appointment of a receiver, make an order requiring a receiver or a person by or on behalf of whom the receiver is appointed, to
(i) make good any default in connection with the receiver's custody, management or disposition of collateral or other property of the debtor, or
(ii) correct any failure to comply with this Part;
(f) exercise with respect to receivers appointed in accordance with a security agreement the jurisdiction that it has over receivers appointed by the court.

(2) The powers referred to in subsection (1) and in section 63 are in addition to any other powers a court may exercise in its jurisdiction over receivers.

(3) Unless a court orders otherwise, a receiver is required to comply with sections 59 and 60 only when the receiver deals with collateral other than in the ordinary course of operating the business of a debtor.

6. The petitioner seeks an order of the court appointing a receiver to ensure protection of its interest.

7. The affidavit material indicates that Crown claims are current.

8. The test to appoint a receiver is articulated in different ways in the authorities:

   a. Where a debtor is in default of its obligations, the appointment of a receiver should be made as a matter of course unless the debtor can show that there are compelling commercial or other reasons why such an order ought not be made.

United Savings Credit Union v. F & R Brokers Inc. (2003), 15 B.C.L.R. (4th) 347 (BCSC)
Canadian Imperial Bank of Commerce v. Can-Pacific Farms Inc., 2012 BCSC 437

   b. The overarching consideration of the court in an application to appoint a receiver is whether it is just and convenient in all of the circumstances.

Cascade Divide Enterprises Inc. v. Laliberte, 2013 BCSC 263
Maple Trade Finance Inc. v. CY Oriental Holdings Ltd., 2009 BCSC 1527

9. The position of Alirey Corp. as secured creditor is separate and apart from the position of Alirey Corp. as shareholder.

10. Regardless of which articulation of the test is applied, the appointment of a receiver of the Property is appropriate in the circumstances.

11. There are a number of factors that may figure in the determination of whether it is appropriate to appoint a receiver:

   a. whether irreparable harm might be caused if no order were made;

   b. the risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of the assets while litigation takes place;

   c. the nature of the property;

   d. the apprehended or actual waste of the debtor's assets;

e. the preservation and protection of the property pending juridical resolution;

f. the balance of convenience to the parties;

g. the fact that the creditor has the right to appoint a receiver under the documentation provided for the loan;

h. the enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulty with the debtor and others;

i. the principle that the appointment of a receiver is extraordinary relief which should be granted cautiously and sparingly;

j. the consideration of whether a court appointment is necessary to enable the receiver to carry out its' duties more efficiently;

k. the effect of the order upon the parties;

l. the length of time that a receiver may be in place;

m. the conduct of the parties;

n. the cost to the parties;

o. the likelihood of maximizing return to the parties;

p. the goal of facilitating the duties of the receiver (collectively, the "Maple Trade Factors")

Maple Trade Finance Inc. v. CY Oriental Holdings Ltd., 2009 BCSC 1527

Public Interest

12. In addition to the Maple Trade Factors, the court is required to consider the public interest in receiving continued delivery of pharmaceutical and medical services.

King (Township) v Rolex Equipment Co., 1992 CanLII 8587 (ON SCDC)

13. On the whole, the factors favour the granting of a receivership order, as:

a. Perhaps most importantly, it will permit the continuation of delivery of online pharmaceutical and medical services to the public.

b. The directors have resigned.

c. Presently, Alirey Corp. is Mednow Inc.'s single largest financial stakeholder, having advanced $3,206,000 as lender and a principal holding 17.6% of the shares and more through or by related parties. There is no expectation that Alirey's principal has any potential recovery of value in the shares.

d. Some of the Property of Mednow Group has been abandoned due to financial failure. If there is no stabilization, others will fail.

e. The Petitioner has a valid and enforceable security interest in the Property, which contemplates the appointment of a receiver.

f. Presently, there is no one with the ability to sell any of the Property. A receiver will be able to do so, including related online operations on a going concern basis (to the extent that is possible).

g. A receiver will be in a position to ensure timely delivery of the purchased services. The intention would be to retain employment for existing staff.

h. There is no practical means by which a receiver could effect the preservation and realization of the Property absent a court order which includes the necessary provisions concerning assistance and access to the Property, as well as protections for the receiver, considering the nature of the Property.

Notice

14. In *Pandion Mine Finance Fund LP v Otso Gold Corp.*, 2022 BCSC 136, Gomery J. analyzed a case like this where the court may find that it is appropriate to make an order: (i) for appointment under section 39 of the BIA. It is not obvious that the 10 day notice is required (paras. 40-46); and (ii) given the inability of Mednow Group to pay and its failed attempts to refinance, the 10 day notice period is a formality.

15. The court measures the prejudice. From the affidavit material, it is clear that the passage of time will not benefit the Mednow Group. At paras. 53-54, the court evaluates the Maple Trade Factors.

16. At paras. 56-60, the court reviews the facts that the debtors do not have the necessary funds.

17. And, at paras. 57-58, the appointments of receiver will facilitate orderly marketing of assets.

18. The court is entitled to consider other stakeholders. In this case, the public.

Borrowing

19. Section 31 of the BIA provides:

Borrowing powers with permission of court

31(1) With the permission of the court, an interim receiver, a receiver within the meaning of subsection 243(2) or a trustee may make necessary or advisable advances, incur obligations, borrow money and give security on the debtor's property in any amount, on any terms and on any property that may be authorized by the court and those advances, obligations and money borrowed must be repaid out of the debtor's property in priority to the creditors' claims.

Security under Bank Act

(2) For the purpose of giving security under section 427 of the Bank Act, the interim receiver, receiver or trustee, when carrying on the business of the bankrupt, is deemed to be a person engaged in the class of business previously carried on by the bankrupt.

Limit of obligations and carrying on of business

(3) The creditors or inspectors may by resolution limit the amount of the obligations that may be incurred, the advances that may be made or moneys that may be borrowed by the trustee and may limit the period of time during which the business of the bankrupt may be carried on by the trustee.

Debts deemed to be debts of estate

(4) All debts incurred and credit received in carrying on the business of a bankrupt are deemed to be debts incurred and credit received by the estate of the bankrupt.

20. The model order requires the court to set a limit on borrowing (para. 77 of *Pandion).*

21. Overall, the balance of convenience clearly favours the appointment of a receiver. There can be no prejudice to Mednow in the circumstances, whereas Alirey Corp. stands to be greatly prejudiced if a receiver is not appointed on the terms sought. There are no other material secured creditors and lien-holders. The appointment of a receiver of the Property so that it might be realized and the proceeds of realization paid out to creditors in order of priority.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Ali Reyhany, made 2/Nov/2023

The petitioner's estimate that the hearing of the petition will take 60 minutes.

Date: 3 /Nov/2023

Signature of lawyer for petitioner
Dennis K. Fitzpatrick