ONTARIO SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

ENDORSEMENT

COURT FILE NO.: CV-24-00712687-00CL **DATE:** May 6, 2024

NO. ON LIST: 1

TITLE OF PROCEEDING: IN THE MATTER OF THE COMPRIMISE OR ARRANGEMENT OF 9869247 CANADA LTD. (d.b.a. SAFARI FLOWER COMPANY) AND GN VENTURES LTD.

BEFORE: JUSTICE OSBORNE

PARTICIPANT INFORMATION

For Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Gina Rhodes	Applicants, 9869247 Canada Ltd (d.b.a. Safari Flower Company) and GN Ventures Ltd.	grhodes@millerthomson.com
Craig A. Mills		cmills@millerthomson.com

For Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Melinda Vine	Gray Jay Estates Inc.	mvine@harrisonpensa.com
Harvey Chaiton	DIP Lender, NE SPC II LP	harvey@chaitons.com

For Other:

Name of Person Appearing	Name of Party	Contact Info
Greg Adams	Monitor, Ernst & Young Inc.	Greg.J.Adams@parthenon.ey.com
Karen Fung		Karen.K.Fung@parthenon.ey.com
Haddon Murray	Counsel to the Monitor, Ernst & Young Inc.	haddon.murray@gowlingwlg.com

ENDORSEMENT OF JUSTICE OSBORNE:

[1] The Applicants seek an Approval and Reverse Vesting Order:

a. approving the Share Purchase Agreement with the DIP Lender (the "Purchaser") dated April 29, 2024, for the purchase and sale of all of the issued and standing shares of the Company;

b. adding Residual Co. as an Applicant to carry out the transactions contemplated by the Share Purchase Agreement (collectively, the "Transactions");

c. vesting in the Purchaser all of the right, title and interest of the Vendor or in and to the Purchased Shares, free from any Encumbrances;

d. vesting in Residual Co. Excluded Liabilities, Excluded Assets and Excluded Contracts;

e. discharging Claims and Encumbrances against the Company and its Property, other than the Permitted Encumbrances;

f. approving the Releases; and

g. sealing the Confidential Exhibits to the affidavit of David Hyde sworn April 29, 2024.

[2] The Applicants also seek and Ancillary Order:

a. increasing the authorized borrowings under the Second Amended DIP Term Sheet and the maximum amount of the DIP Lenders Charge;

b. extending the Stay Period to and including June 30, 2024; and

c. approving the Third Report of the Monitor dated March 21, 2024, the Fourth Report dated April 15, 2024; the Fifth Report dated May 2, 2024, together with the activities set out in all of those Reports.

[3] Defined terms in this Endorsement have the meaning given to them in the motion materials and/or the Fifth Report, unless otherwise stated.

[4] The Service List has been served with the motion materials and the Fifth Report. The relief sought today is unopposed. The Applicants rely upon the Affidavit of Dr. Brigitte Simons sworn April 29, 2024 and her Supplementary Affidavit sworn May 1, 2024, each together with exhibits thereto (which, for greater certainty, include certain of her earlier affidavits sworn in this proceeding), together with the Fifth Report..

[5] Much of the background for, and context of, this motion are set out in my earlier Endorsements made in this proceeding, and in the motion materials. The secured lenders, Blacksail and Gray Jay (together, the "Lenders"), entered into negotiations at the end of the Sale Process. They have now executed an assignment agreement that contemplates Gray Jay purchasing the debt of Blacksail.

[6] For the reasons that follow, I am satisfied that the relief sought should be granted.

[7] On April 29, 2024, Blacksail and the Applicants, under the supervision of the Monitor, executed a Share Purchase Agreement pursuant to which GN Ventures agreed to sell to the Purchaser the shares of Safari Flower for a purchase price consisting of the CCAA Charge Amount, the amount required to satisfy the Priority Payment Amount as at the Closing Time, and the Administration Expense Amount.

[8] The Applicants seek a reverse vesting order structure to preserve the cannabis licences which are essential for the Company to continue as a going concern, and which will allow the Excluded Assets to be transferred to Residual Co. and the Excluded Liabilities to be vested off title of the Purchased Shares and the assets retained by the Company and transferred to Residual Co.

[9] The Transaction contemplated by the Share Purchase Agreement is acceptable to the Lenders, who are the only parties with an economic interest in the Safari Flower Group. It also provides significantly more value to the Lenders than the offer received in connection with the Sale Process that was conducted pre-filing.

[10] The Applicants submit that the Share Purchase Agreement and the Transaction are in their best interest and the best interests of their stakeholders.

[11] I observe that substantially all of the employees of Safari Flower will remain employed following Closing.

[12] Residual Co. has been incorporated under the laws of Canada for the purposes of implementing the Transaction. Immediately after the Excluded Assets and the Excluded Liabilities are transferred and vested in Residual Co. in accordance with the Implementation Steps, the entity will be balance sheet insolvent with Claims against it that exceed in the aggregate $5 million.

[13] The Transaction is approved. I am satisfied that, notwithstanding that the Sales Process was conducted pre-filing, the *Soundair* Principles have been met. I am also satisfied, given the reverse vesting order structure, that the factors set out by Justice Penny in *Harte Gold*, have been met.

[14] The proposed third party releases in favour of the Released Parties are appropriate. I am satisfied that the Released Parties that made material contributions to this proceeding, resulting in the Share Purchase Agreement. In addition, the requested Releases will facilitate the release of the Court-ordered Directors' Charge without the need to conduct a claims process to determine claims. The proposed releases are limited in scope that the only pre-filing conduct released relates to the Sale Process. The scope of the releases excludes those claims not permitted to be released pursuant to section 5.1(2) of the CCAA. The proposed releases satisfy the factors set out in *Lydian International* and *Green Relief* as well as *Just Energy*.

[15] The Directors' Charge, Consultant's Charge and KERP Charge are terminated effective on the closing of the Transaction. They are no longer necessary for the reasons set out in the motion materials.

[16] The sealing order is limited, both in time and scope. It is effective only until the closing of the Transaction or further order of the court, and covers only the Confidential Exhibits to the Hyde Affidavit. Those include the letters of intent and the final bid received from potential purchasers during the Sales Process. If the Transaction fails to close and the assets need to be marketed and sold again, there is no question that these documents, if publicly available until that time, would materially if not fatally impair such a sales process.

[17] I am satisfied that the factors set out by the Supreme Court of Canada in *Sierra Club* as modified and refined in *Sherman Estate* have been satisfied here. The sealing order is granted. The Applicants are directed to file hard copies of the sealed documents with the Commercial List Office in a sealed envelope marked: "Confidential, not to form part of the record and sealed subject to further order of this Court".

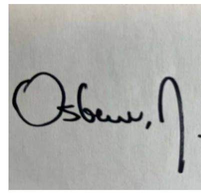
[18] The ancillary relief is also appropriate and is granted. The increase in the Second Amended DIP Term Sheet, and the corresponding increase in the DIP Lenders' Charge, each to the principal amount of $2,600,000 plus interest, fees, costs and other amounts payable, is also appropriate, for the reasons set out in the motion materials and the Monitor's Report.

[19] The Third, Fourth and Fifth Reports of the Monitor and the activities described therein are appropriate, reasonable and are approved. The activities are appropriate, necessary to the result achieved, and consistent with the mandate given to the Monitor in the original appointment order.

[20] Finally, the stay currently expires on May 7. The Transaction is expected to close prior to June 30, if approval is granted (as I have determined it should be), with the result that an extension of the stay to

June 30 is appropriate. The cash flow forecast, updated, appended to the Fifth Report, demonstrates that the Applicants will have sufficient cash flow during the extended Stay Period. The extension is reasonable, the Applicants have acted, and continue to act, in good faith and with due diligence, and no creditors will suffer material prejudice. The extension is supported by the Monitor and the DIP Lender. The extension is approved.

[21] Both orders to go in the form signed by me which are effective immediately and without the necessity of issuing and entering.



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Justice Osborne