Court File No.: CV-24-00722104-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

B E T W E E N:

STOKE CANADA FINANCE CORP.

Applicant

And

GREENSEAL CANNABIS COMPANY LTD., ATLAS GLOBAL BRANDS INC.

Respondents

IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c C.43, AS AMENDED

SUPPLEMENTARY FACTUM OF THE APPLICANT
(RE: APPOINTMENT OF RECEIVER)

July 8, 2024

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TO: THE SERVICE LIST

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PART I – INTRODUCTION.

1. This Supplementary Factum sets out relevant facts that have occurred since the filing of the Factum of Stoke dated June 25, 2024 and to outline the further arguments that Stoke will make as a result.

2. The defined terms in this Supplementary Factum have the same meaning as those in the June 25, 2024 Factum.

PART II – OVERVIEW

3. The proposed CCAA restructuring of GreenSeal remains contested.

4. GreenSeal has been unable to obtain interim financing in order to fund gaps in its projected cash flow forecast during the proposed period of a further stay and a sale process.

5. A prior attempt to grant a proposed DIP lender a priming charge over the assets of GreenSeal was abandoned in the face of opposition of YNCU and Stoke.

6. That resulted in a proposal by GreenSeal on July 1 to use existing accounts receivable, over which Stoke claims an ownership interest and in which Stoke and YNCU also have secured claims, to fund operations. That plan was objected to by Stoke and YNCU, but Stoke offered to explore granting a DIP facility instead. After detailed review and discussions with management of GreenSeal, however, Stoke concluded that it could not grant such a facility to GreenSeal without undue risk of non-payment under the operating terms and restructuring plans proposed by management.

7. In response, GreenSeal has effectively reverted to its prior July 1 plan to use receivables that are owned by Stoke and are subject to secured claims by Stoke and YNCU. It has no other choice, because without that, it cannot fund its cash flow. That runs into the issue that Stoke claims ownership to all of these receivables. The argument that GreenSeal makes to divide the

receivables up in some fashion is neither supported by the facts nor is possible of being dealt with summarily at this late date.

8. Stoke objects to GreenSeal's proposal, because Stoke believes it will be a worse result than a receivership. Further, Stoke has no confidence in management of GreenSeal in light of (i) inconsistent information from management about projected cash flows, (ii) a chimera-like assertion of royalties that are not currently being paid if GreenSeal is in receivership, and (iii) ill-defined promises of greater recovery in a sale process while management devalues GreenSeal in its commentary, Stoke requests that GreenSeal be placed in receivership. As noted before, that would logically be done in YNCU's application, to which Stoke agrees to defer its application.

PART III – FACTS SINCE THE JUNE 25, 2024 FACTUM

9. Stoke has significant concerns about the involvement and actions of management of GreenSeal (and by extension of Atlas).

10. A large issue in that regard is the varying numbers presented in the versions of cash flow projections that have been provided. As between the cash flow statements dated June 17, June 27 and July 6, the following numbers from projected operations of GreenSeal appear:[1]

	June 17th Cash Flow	**June 27th Cash Flow**	**July 6th Cash Flow**
Total receipts	$3,616,203	$4,280,547	$3,671,776
Total disbursements	$1,964,586	$3,740,109	$3,019,274
Net cash from operations	$1,651,617	$540,438	$652,503

[1] Affidavit of David Adam Goldstein sworn July 8, 2024 (the "**Goldstein Affidavit**"), at para. 8.

11. A further issue is the omnibus assertion by management that a sale process for GreenSeal will be better as part of an overall CCAA process. As a general matter, the cannabis industry is undergoing a correction after overexpansion, which calls that assertion into question. Also, assuming a successful sale process in this case is questionable when Agmedica itself went through a failed sale process in a CCAA proceeding previously. Further, management of GreenSeal and Atlas have elsewhere suggested that GreenSeal is not worth much, noting "...the market value of a stand-alone cultivation site with no intangible assets (genetics, branding) and no other unique qualities, such as access to international markets through Atlas, would likely not realize sufficient recovery to satisfy all secured creditors." If an overall sale is pursued and is successful, allocation of proceeds will still remain and engage the same issues.[2]

12. Another issue is that management of GreenSeal and Atlas have suggested, but only seemingly in response to requests for the appointment of a receiver, that GreenSeal may have to make royalty payments to Atlas for use of the D*gg brand and to GreenSeal Nursery for plants grown from clones owned by it. None of the cash flow forecasts show any such royalties for operation in the proposed CCAA process. Counsel for Stoke have asked GreenSeal and Atlas for any documentation to substantiate any such obligation. No such documentation was provided.[3]

13. Steinberg Advisory Corp. ("**SAC**") is an advisor to Stoke and is the proposed chief restructuring officer of GreenSeal to be engaged by PricewaterhouseCoopers Inc. as receiver. SAC has significant experience in respect of the restructuring of a wide variety cannabis operations, including cultivation facilities like GreenSeal. In fact, one of SAC's current mandates is as Chief Executive Officer (and formerly as chief restructuring officer) of a similar cultivation facility in Ontario.[4]

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[2] Goldstein Affidavit para. 9.
[3] Goldstein Affidavit, para. 10.
[4] Affidavit of Howard Steinberg sworn July 8, 2024, (the "**Steinberg Affidavit**") paras. 1 and 2.

14. Howard Steinberg, founder and owner of SAC, has reviewed the cash flow forecasts of GreenSeal and has compared that with his analysis of the results under a receivership. He projects that the results from GreenSeal's operations over the same period would be more than $750,000 better for creditors in a receivership, being Stoke and YNCU, than the CCAA projections.[5]

15. That projection includes full payment of payroll due on July 10 before scaling back payroll to a level more appropriate for GreenSeal's operations, but also keeping GreenSeal operational and leaving open a going concern sale after a suitable marketing process. Recoveries from a sale process would be in addition to the financial results projected.[6]

16. Mr. Steinberg has also noted concerns with the information and projections provided by GreenSeal:

(a) he notes that inventory may be overvalued at $3.6 million, because current inventory may be closer to $550,000 in value, which when combined with crops in progress may have a culmulative value of $1 million at a price of $1.25/gram;[7]

(b) he notes that sales may be much lower than projected, because the business has experienced a decrease in sales of 45% from October of 2023 to June of 2024, and a drop in sales of 19% to the Ontario Cannabis Store ("**OCS**") in June of 2024, whereas the cash flow forecast assumes a constant demand;[8]

(c) cannabis companies in insolvency proceedings are not paid in 30-45 days as projected by GreenSeal, but instead are paid at 60 days, which OCS does to manage its exposure to a vendor because claiming credits later is questionable, which causes a further gap in the projected cash flows;[9] and

(d) there is a basis for concern that current receivables of GreenSeal are relatively solid but GreenSeal's proposed plan to use receivables to fund operations

[5] Steinberg affidavit para. 7.
[6] Steinberg affidavit paras. 8 and 9.
[7] Steinberg affidavit para. 10(a).
[8] Steinberg affidavit para. 10(b).
[9] Steinberg affidavit para. 10(c).

> effectively cycles those solid receivables into new receivables, the value of later which may be much more doubtful at a later stage in an insolvency proceeding.[10]

PART IV – FURTHER ARGUMENT

17. The core issue remains which insolvency process is appropriate based on the factual circumstances of this case: (i) a receivership over GreenSeal; or (ii) leaving Atlas Group management in possession of GreenSeal and continuing under the CCAA.

18. As noted in the June 25, 2024 Factum,[11] Courts have identified six factors in weighing competing CCAA and receivership applications: (1) the relationship between debtor and creditors; (2) value maximization and cost minimization; (3) the availability of new financing; (4) the effects on stakeholders; (5) the behaviour of the parties; and (6) the need for the CCAA's discretionary relief.

19. The facts that have occurred since the commencement of these proceedings lead to the following further comments on those factors.

I. Application of Factors Favours a Receivership

i. The Relationship Between the Debtor and its Creditors

20. In addition to the concerns noted previously, Stoke's concerns about the involvement and actions of management of GreenSeal have amplified.

21. Management has provided varying cash flow projections over a short period, which undermines confidence.

22. Management makes vague promises of benefits of the benefits of an overall sale process, but then asserts that GreenSeal has little value.

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[10] Steinberg affidavit para. 10(d).

[11] See para. 31.

23. Management threatens that royalties may be payable by GreenSeal for its operations but only in a receivership, while nothing of the sort was included the cash flow projections if GreenSeal remains in a CCAA process, and has not provided any documentation to support that claim. The assertion has the appearance of being intended to frustrate creditors when the companies dealt with each other in an obviously informal basis.

ii. Value Maximization and Cost Minimization

24. The analysis prepared by Mr. Steinberg suggests that the costs being incurred in the proposed CCAA proceedings is unduly more expensive than what could be accomplished in a receivership.

25. It is curious that management has not taken any steps to curtail costs when expenses of GreenSeal are high and it has been operating at a loss for some time. Reducing costs and improving revenue through the tools available in an insolvency proceeding is a common sense way to attract greater value in a sale process, but is not being pursued.

26. The assertions of a greater value in an overall sale process overlooks that GreenSeal can still be included in an overall sale process while in receivership. That of course assumes that such a process gains traction notwithstanding the state of the cannabis industry generally and the failed prior sale process of AgMedica in particular.

27. The allegations of GreenSeal being part of an overall enterprise are illusory. GreenSeal and AgMedica are substantially different businesses focussed on the domestic and international markets, respectively, and with entirely different creditors behind each. The largest connection between GreenSeal and AgMedica is the admitted advance of more than $3 million by the former

to the latter under current management.[12] The creditors of GreenSeal have already indirectly subsidized AgMedica, such that it is now time for their several interests to be protected.

iii. Availability of New Financing

28. The record is now clear that there is no further financing available. GreenSeal is compelled to askj that it be allowed to use receivables that its prior cash flow statements excluded due to the claims of Stoke to ownership. The lack of any willing lender is telling and indicates that the value remaining to creditors is seriously at risk.

29. The plan to use receivables is contrary to the ownership of Stoke in those receivables. GreenSeal attempts to create distinctions in such ownership and seeks to effectively litigate their way into an ability on a preliminary basis to use those funds or a portion of them. The concept of restricting Stoke's interest to what it has advanced against a purchase of receivables overlooks the very purpose of such purpose and reserve account. Namely that is to ensure that Stoke is fully paid on the funds it advanced and has recourse against all such purchased reeivables unless and until it has been fully paid. Stoke is squarely in jeopardy of non-payment, because GreenSeal has already appropriated receivables owned by Stoke, such that Stoke's right to look to 100% of the remaining purchased receivables is all the more important.

iv. Effects on Stakeholders

30. Stoke and YNCU are the only conventional secured creditors of GreenSeal. The effects of the two options has been analyzed and a receivership is their preference.

31. Stoke and YNCU do not accept the vague assertions of better results under the proposed CCAA process as compared to a receivership for GreenSeal. A benefit of the substantial engagement among GreenSeal, Stoke and YNCU is that such decision is now made with much

[12] See para. 100 of the Affidavit of Jason Cervi affirmed June 26, 2024. CaseLines Master A1893.

more information than at the beginning of this proceeding. While the interests of creditors normally carry weight, here their interests have been identified on a considered basis, which ought to be reflected in the disposition.

v. Behaviour of the Parties

32. Stoke has been accommodating in attempting to allow time to see if any reasonable alternative to receivership is possible. After spending a great deal of time and fees on that, it has unfortunately concluded it is not. YNCU has done the same.

33. GreenSeal resorts to elaborate arguments against that because it has no other choice in the circumstances. That is not necessarily deserving of criticism, but the continued assertion of possible royalty obligations by GreenSeal in a receivership while not providing any information to back that up is not constructive and may be more relevant in ways that GreenSeal did not intend.

vi. Need for CCAA Discretionary Relief

34. There is no aspect of what can be done with GreenSeal that requires something not available in a receivership.

PART VI – RELIEF REQUESTED

35. Based on the foregoing, the Applicant is entitled to the relief sought being the granting of a receivership order pursuant to section 243 of the BIA and section 101 of the CJA, in substantial accordance with the Commercial List model receivership order, which *inter alia*, appoints PwC as Receiver without security, of all of Stoke's Collateral.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 8th DAY OF JULY, 2024

"Reconstruct LLP"

RECONSTRUCT LLP

SCHEDULE "A"

[None]

SCHEDULE "B"

[None]

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Proceedings commenced at Toronto

SUPPLEMENTARY FACTUM OF THE APPLICANT
(Returnable July 9, 2024)

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