



ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL/ENDORSEMENT SLIP**

COURT FILE NO.: BK-24-03050418-0031

DATE: May 30, 2024

NO. ON LIST: 2

TITLE OF PROCEEDING: THE BODY SHOP CANADA LIMITED et al

BEFORE: JUSTICE CAVANAGH

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party:**

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**For Defendant, Respondent, Responding Party:**

Name of Person Appearing	Name of Party	Contact Info
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**ENDORSEMENT OF JUSTICE CAVANAGH:**

- [1] On March 1, 2024, The Body Shop Canada Limited (the “Company”) filed a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act*. Alvarez & Marsal Canada Inc. was appointed as the proposal trustee (the “Proposal Trustee”). On April 15, 2024, this Court made an order granting the Company an extension of time to file a proposal to May 31, 2024, along with other related relief.
- [2] On this motion, the Company seeks an order: (a) extending the time for the Company to file a proposal under the *BIA* to July 12, 2024; and (b) approving the activities and conduct of the Proposal Trustee as set out in its Third Report dated May 15, 2024 (the “Third Report”) and Fourth Report dated May 27, 2024, filed in connection with this motion (the “Fourth Report”).
- [3] The facts in support of this motion are more fully set out in the Affidavit of Jordan Searle sworn May 23, 2024.
- [4] The Company specializes in the sale of skincare, hair care, bath and body products with 72 stores across Canada. The Company and its U.S. affiliate are wholly-owned subsidiaries of The Body Shop International Limited (“UK Parent”) which is indirectly owned by Aurelius IV UK Acquico Eight Limited (the “Aurelius Purchaser”, and together with its affiliates, “Aurelius”).
- [5] The UK Parent historically provided several accounting and cash management services for the Company and its U.S. affiliate. These services were provided pursuant to a cash management system and cash pooling arrangement. The Company and its U.S. affiliate found themselves in a liquidity crisis when the UK Parent unexpectedly filed for administration (the “UK Administration”) on February 13, 2024, and funding for the Company and its U.S. affiliate was cut off with no advance notice.
- [6] The principal purpose of this NOI proceeding is to enable the Company to devise a viable proposal for the benefit of its stakeholders. The Company, with the assistance of the Proposal Trustee, is actively pursuing discussions with the UK Administrators, UK Parent, Aurelius, and interested parties in connection with implementing a transaction that would allow the Company to make a proposal to its creditors and continue as a going concern.
- [7] In the interim, the Company seeks the relief requested on this motion to facilitate its ongoing, good-faith, efforts to preserve the Company’s business in Canada. The Company needs additional time to allow the sale process in the UK Administration (described in the motion materials) to unfold and further the Company’s efforts to implement a proposal and continue as a going concern.
- [8] The Company is pursuing alternatives to keep the business in Canada operating as a going concern. Given that TBS International owns the right to the “The Body Shop” brand and all of the Company’s inventory is sourced from the UK parent, the ability for the Company

to emerge from these restructuring proceedings and continue as a going concern requires the UK parent to be amenable to the structure of any transaction and is contingent on the outcome of the UK Administration. The Company is an active discussions with the UK Parent, the UK Administrators, Aurelius, and interested parties with respect to settling the terms of a going concern solution for the business in Canada.

- [9] Section 50.4 (9) of the *BIA* provides the court with authority to grant an extension of time required to file a proposal where the court is satisfied that: (a) the insolvent person has acted, and is acting, in good faith and with due diligence; (b) the insolvent person would likely be able to make a viable proposal if the extension being applied for were granted; and (c) no creditor would be materially prejudiced if the extension being applied for were granted.
- [10] I am satisfied that the Company has acted in good faith and with due diligence since commencing this proceeding. In this respect, I accept the submissions made on behalf of the Company at paragraphs 46-47 of its factum.
- [11] I am satisfied that the requested extension will increase the likelihood of a viable proposal by providing the Company with the ongoing benefit of the stay of proceedings while the UK Parent continues to advance its sale process within the UK Administration. The Proposal Trustee supports the requested extension.
- [12] I am satisfied that the extension will not prejudice or affect any of the Company's creditors. In this respect, I accept the submissions made on behalf of the Company at paragraph 50 its factum.
- [13] The Company seeks this Court's approval of the activities and conduct of the Proposal Trustee, as set out in the Third Report and Fourth Report. In *Target Canada Co. (Re)*, 2015 ONSC 7574, Morawetz J., as he then was, stated that "there are good policy and practical reasons for the court to approve of Monitor's activities in providing a level of protection for Monitors during the CCAA process". This proposition applies equally to court-appointed officers under the *BIA*. See *Triple-I Capital Partners Limited v. 12411300 Canada Inc.*, 2023 ONSC 3400, at para. 66.
- [14] I am satisfied that the requested approval should be granted. In this respect, I accept the submissions made on behalf of the Company at paragraph 56 of its factum.
- [15] Order to issue in form of Order signed by me today.