

COURT FILE NO.

COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

MATTER

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

AND IN THE MATTER OF THE COMPROMISE OR  
ARRANGEMENT OF ROYAL HELIUM LTD.,  
IMPERIAL HELIUM CORP., AND ROYAL HELIUM  
EXPLORATION LIMITED.

APPLICANTS

ROYAL HELIUM LTD., IMPERIAL HELIUM CORP.,  
AND ROYAL HELIUM EXPLORATION LIMITED.

DOCUMENT

**BENCH BRIEF OF THE APPLICANTS**

ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

**RECONSTRUCT LLP**  
80 Richmond Street West  
Suite 1700  
Toronto, ON M5H 2A4

**Caitlin Fell / Sharon Kour**  
E-mail: [cfell@reconllp.com](mailto:cfell@reconllp.com) / [skour@reconllp.com](mailto:skour@reconllp.com)  
Tel: 416.613.8282 / 416.613.8283  
Fax: 416.613.8290

**Lawyers for the Applicants**

**TABLE OF CONTENTS**

<b>I. INTRODUCTION.....</b>	<b>3</b>
<b>II. STATEMENT OF FACTS.....</b>	<b>5</b>
<b>III. ISSUES.....</b>	<b>7</b>
<b>IV. LAW &amp; ARGUMENT.....</b>	<b>8</b>
A. The Applicants are Entitled to Seek Protection under the CCAA.....	8
B. The NOI Proceedings should be Continued under the CCAA.....	10
C. The Stay of Proceedings Should be Approved and Continued.....	13
D. The Appointment of A&M as the Monitor Should be Approved.....	15
E. The Amended Administration Charge Should be Extended to the Monitor and its Counsel.....	15
F. The Cash Management System Should be Approved.....	17
<b>V. CONCLUSION.....</b>	<b>18</b>
<b>VI. TABLE OF AUTHORITIES.....</b>	<b>19</b>

## I. INTRODUCTION

1. This Bench Brief is submitted on behalf of the Applicants, Royal Helium Ltd., Royal Helium Exploration Limited, and Imperial Helium Corp. (each individually, an “**Applicant**”, and collectively, the “**Applicants**”), who seek the following relief in this Application:

- (a) An initial order (the “**Initial Order**”) substantially in the form attached as **Schedule “A”**:
  - i. declaring that each of the Applicants are companies to which the CCAA applies;
  - ii. declaring that (i) the proceedings commenced by the Applicants under Division I of Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”, and such proceedings, the “**NOI Proceedings**”) of the Applicants are taken up and continued under the CCAA, pursuant to section 11.6(a) of the CCAA; (ii) declaring that Division I of Part III of the BIA has no further application to the Applicants; (iii) terminating the NOI Proceedings; and (iv) deeming the Notices of Intention to Make a Proposal (the “**NOIs**”) filed by the Applicants, under section 50.4 of the BIA, to be withdrawn;
  - iii. appointing Alvarez & Marsal Canada Inc. (“**A&M**”) as the monitor (the “**Monitor**”) of the Applicants in these proceedings;
  - iv. declaring that the relief granted by order of the Ontario Superior Court of Justice (Commercial List) dated January 29, 2025 (the “**Consolidation Order**”) is hereby taken up and continued pursuant to the Initial Order;

- v. continuing and taking up under the CCAA such charges and amounts secured under the Consolidation Order, specifying that the Amended Administration Charge (as defined below) shall secure the fees and disbursements of the Monitor and its legal counsel, and confirming that such charges attach to all of the assets and property of the Applicants and continue to rank in priority to all other charges, mortgages, liens, security interests and other encumbrances therein, and in the following order priority amongst themselves:
    - 1. first – a charge in favour of the Monitor, its legal counsel, and the Applicants’ legal counsel in respect of their fees and disbursements, to a maximum amount of \$300,000 (the “**Amended Administration Charge**”); and
    - 2. second – a charge in favour of the DIP Lender up to the maximum principal amount of \$1,500,000 (“**DIP Lender’s Charge**”);
  - vi. authorizing the Applicants to pay the reasonable expenses incurred in carrying out their business in the ordinary course, including certain expenses incurred prior to the date of the Initial Order;
  - vii. authorizing the Applicants to pay all reasonable fees and disbursements of the Proposed Monitor, the Proposed Monitor’s legal counsel, and the Applicants’ legal counsel; and
- (b) such further and other relief as may be sought by the Applicants and granted by this Honourable Court.

## II. STATEMENT OF FACTS

2. The Applicants' application is supported by the Affidavit of David Young, Chief Executive Officer of each of the Applicants, sworn February 10, 2025 (the "**Young Affidavit**"). The Applicants rely on the facts as set out in the Young Affidavit for the purposes of this Bench Brief, in addition to the brief statement of facts provided below.

3. Capitalized terms not defined herein have the meanings given to them in the Young Affidavit.

4. Royal Helium Ltd. ("**RHL**") is a public company that trades on the Toronto Stock Exchange, Venture Exchange (the "**TSX. V**") and holds 100% of the issued and outstanding capital of its two subsidiaries: Royal Helium Exploration Limited ("**RHEL**") and Imperial Helium Corp ("**IHC**", together with RHEL the "**RHL Subsidiaries**"). Since its inception, RHL has grown through a series of amalgamations, asset purchases and through exploration and drilling for new resources.<sup>1</sup>

5. The Applicants are in the business of gas extraction and exploration. The company is focused on the drilling and extracting of helium for purification and the exploration of prospective helium rich lands in Saskatchewan and Alberta (the "**Business**"). The Applicants control approximately 564,000 acres of prospective helium lands through permits and leases across Saskatchewan and Alberta. Saskatchewan and Alberta are believed to have some of the largest prospective helium resources in the world. As such, these lands may have significant economic concentrations of helium trapped in the subsurface for extraction and purification.<sup>2</sup>

6. The Applicants are suffering a liquidity crisis precipitated by the failed commissioning of the helium purification facility in Steeveville, Alberta (the "**Steeveville Facility**"). In 2023, under the

---

<sup>1</sup> Young Affidavit at para. 1.

<sup>2</sup> Young Affidavit at para. 2.

prior management team, RHL through its subsidiary IHC purchased a state-of-the-art helium purification facility, which was later completed and brought over to its designated location in Steeveville, Alberta. However, the Applicants encountered challenges commissioning the Steeveville Facility, resulting in greater than anticipated labour costs and increased general and administrative expenses.<sup>3</sup>

7. The Applicants never successfully commissioned the Steeveville Facility and all operations at the facility have been on hold since September 2024.<sup>4</sup>

### ***The NOI Proceeding***

8. The Applicants have not been able to operate the Steeveville Facility on a cash flow positive basis, and revenues from the purification plant have not met anticipated targets. Coupled with the massive expense related to the commissioning, commencing in and around October 2024, this caused a liquidity crisis, and the Applicants were not able to meet their obligations to secured lenders as they became due.<sup>5</sup>

9. On January 7 and 8, 2025, the Applicants' primary secured lenders, Canadian Western Bank ("**CWB**") and Business Development Bank of Canada ("**BDC**" and together with CWB, the "**Lenders**"), respectively, issued Notices of Intention to Enforce Security under Section 244 of the BIA.

10. On January 17, 2025, the Applicants each filed Notices of Intention to Make a Proposal pursuant to Section 50.4(1) of the BIA. The filings for the NOI Proceedings were made with the Office of the Superintendent of Bankruptcy in the district of Toronto, Ontario as the corporate functions of the Applicants under the Applicants' new management team were based in Toronto,

---

<sup>3</sup> Young Affidavit at para. 4.

<sup>4</sup> Young Affidavit at para. 38.

<sup>5</sup> Young Affidavit at para. 6.

and the registered mailing address of RHL was in Toronto.<sup>6</sup>

11. On January 29, 2025, the Applicants brought a motion in the Ontario Superior Court of Justice (Commercial List) for the Consolidation Order which, among other things: (i) procedurally consolidated the Applicants' NOI Proceedings; (ii) extended the Stay Period to April 2, 2025; (iii) granted the Administration Charge; (iv) approved the DIP Facility and granted the DIP Lender's Charge on the Property; and (v) ordered that the NOI Proceedings be transferred to the Court of King's Bench of Alberta (the "**Consolidation Order**").<sup>7</sup>

12. Pursuant to an agreement between the Applicants and the Lenders, and with the consent of the DIP Lender the Applicants are seeking to continue these proceedings under the protection of the CCAA in order to restructure the Business, access interim financing meet their immediate liquidity requirements, and develop a sale and investment solicitation process ("**SISP**") to achieve a value maximizing result for the benefit of the Lenders of the Applicants.<sup>8</sup>

13. The Applicants, in consultation with the Monitor and Lenders, are developing a SISP with the aim of soliciting an offer or offers to continue the Business. It is contemplated that such transaction would entail the implementation by a purchaser or investor of an engineering solution for the Steeveville Facility to allow it to operate at optimal levels and results in increased throughput such that the facility will be able to operate on a cash flow positive basis, as it was designed for.<sup>9</sup>

### III. ISSUES

14. The issues to be determined by the Court on this Application are as follows:

---

<sup>6</sup> Young Affidavit at para. 8.

<sup>7</sup> Young Affidavit at para. 9.

<sup>8</sup> Young Affidavit at para. 10.

<sup>9</sup> Young Affidavit at para. 11.

- (a) Whether the Applicants are entitled to seek protection under the CCAA;
- (b) Whether the Court should continue the NOI Proceedings under the CCAA;
- (c) Whether the Stay of Proceedings should be approved and continued;
- (d) Whether the proposed Monitor should be appointed; and
- (e) Whether the Amended Administration Charge should be approved and continued.

#### **IV. LAW & ARGUMENT**

##### **A. The Applicants are Entitled to Seek Protection under the CCAA**

15. The Applicants satisfy the general criteria to seek protection under the CCAA. Section 3(1) of the CCAA provides that the CCAA applies in respect of a “debtor company” or “affiliated debtor companies” if the total of claims against them is more than \$5 million.<sup>10</sup>

16. A “debtor company” is defined as, *inter alia*, a “company” that is “insolvent”, or that has committed an act of bankruptcy within the meaning of the BIA.<sup>11</sup> A company that is incorporated under Federal or Provincial Business Corporations legislation falls within the definition of “company” in the CCAA.<sup>12</sup>

17. The definition of “insolvent person” under the BIA means a person who is not bankrupt and who resides, carries on business or has property in Canada, whose liabilities to creditors provable as claims under the BIA amount to one thousand dollars and, who (i) is unable to meet their obligations as they become due, (ii) has ceased paying their current obligations as they become due; or (iii) the aggregate of whose property is not, at fair valuation, sufficient or if

---

<sup>10</sup> CCAA, s. 3(1), Brief of Authorities of the Applicants, [TAB 3] (“BOA”).

<sup>11</sup> BIA, s. 2, BOA [TAB 4].

<sup>12</sup> CCAA, s. 2(1), BOA [TAB 3].

disposed of at a fairly conducted sale under legal process, would not be sufficient to pay all obligations due and accruing due.<sup>13</sup>

18. A financially troubled corporation may also satisfy the criteria of insolvency if it is reasonably expected to run out of liquidity or faces an imminent liquidity crisis, before a restructuring can be implemented.<sup>14</sup>

19. The Applicants meet the foregoing statutory criteria required to seek protection under the CCAA.

(a) The Applicants are affiliated companies within the meaning of section 3(2) of the CCAA;<sup>15</sup>

(b) The Applicants have claims against them in excess of \$5,000,000 CAD;<sup>16</sup> and

(c) The Applicants were, prior to securing interim financing, suffering a liquidity crisis and are unable to meet their obligations as they generally become due.<sup>17</sup>

20. Accordingly, the Applicants qualify to continue the NOI Proceedings under the CCAA in order to advance the restructuring efforts and implement a SISF which the Applicants reasonably believe will result in a value-maximizing transaction for all stakeholders.<sup>18</sup>

---

<sup>13</sup> BIA, s. 2, BOA [TAB 4].

<sup>14</sup> *Stelco Inc (Re)*, 2004 CanLII 24933 (ONSC) at para. 26, BOA [TAB 5]; *Re Target Canada Co.*, 2015 ONSC 303 at para. 26, BOA [TAB 6] (“*Target*”); *Laurentian University of Sudbury*, 2021 ONSC 659 at paras. 30-33, BOA [TAB 7].

<sup>15</sup> CCAA, s. 3(2), BOA [TAB 3]; Young Affidavit at para. 1.

<sup>16</sup> Young Affidavit at para. 49.

<sup>17</sup> Young Affidavit at para. 6.

<sup>18</sup> Young Affidavit at paras. 10, 13.

21. Additionally, the continuation of proceedings under the CCAA and transfer of the NOI Proceedings to Alberta are terms of an agreement between the Applicants and the Lenders in relation to settling the Applicants' motion for the Consolidation Order.

22. The broad statutory jurisdiction afforded by section 11 of the CCAA allows the Court to "make any order that it considers appropriate in the circumstances" in the proceedings.<sup>19</sup> In exercising its discretion under this part, the Court must be satisfied that the relief is "reasonably necessary for the continued operations of the debtor company in the ordinary course of business during that period".<sup>20</sup>

23. The Applicants seek breathing room to restructure and to develop and conduct a robust sale and investment process that would maximize realization for the secured lenders and permit the Business to continue as a going concern for the benefit of the broader community of stakeholders. The Supreme Court of Canada has emphasized that the CCAA is remedial in nature and given weight to the policy objectives of reorganization, including to serve the public interest by facilitating the survival of businesses and jobs.<sup>21</sup>

## **B. The NOI Proceedings Should be Continued under the CCAA**

24. Section 11.6 of the CCAA grants this Court the authority to take up and continue proceedings commenced under Part III of the BIA where no proposal has been filed,

**11.6** Notwithstanding the [Bankruptcy and Insolvency Act](#),

(a) proceedings commenced under Part III of the [Bankruptcy and Insolvency Act](#) may be taken up and continued under this Act only if a proposal within the meaning of the [Bankruptcy and Insolvency Act](#) has not been filed under that Part.<sup>22</sup>

---

<sup>19</sup> CCAA, [s. 11](#), BOA [TAB 3]

<sup>20</sup> *Ibid.*

<sup>21</sup> *Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60 at [para. 16](#) ("**Century Services**"), BOA [TAB 8].

<sup>22</sup> CCAA, [s. 11.6\(a\)](#), BOA [TAB 3].

25. The Court has considered the following criteria to determine whether a continuation of proceedings under the CCAA should be granted,

- (a) whether the moving parties have satisfied the sole statutory condition in Section 11.6(a) of the CCAA, namely, that they have not filed a proposal under the BIA;
- (b) the proposed continuation would be consistent with the purposes of the CCAA; and
- (c) the moving parties have provided the court with evidence that serves as a reasonable surrogate for the information which Section 10(2) of the CCAA requires accompany any initial application under the CCAA.<sup>23</sup>

26. The purposes of the CCAA were articulated by the Supreme Court of Canada in *Century Services Inc. v. Canada (Attorney General)* as follows,

- (a) to permit the debtor to continue to carry on business and, where possible, avoid the social and economic costs of liquidating its assets;<sup>24</sup>
- (b) to provide a means whereby the devastating social and economic effects of bankruptcy or creditor initiated termination of ongoing business operations can be avoided while a court-supervised attempt to reorganize the financial affairs of the debtor company is made;<sup>25</sup>
- (c) to avoid the social and economic losses resulting from liquidation of an insolvent company; and<sup>26</sup>

---

<sup>23</sup> *Mantle Materials Group, Ltd (Re)*, 2024 ABKB 19 at [para. 20](#) (“*Mantle*”), BOA [TAB 9], citing (*Re*) *Clothing for Modern Times Ltd.*, 2011 ONSC 7522, BOA [TAB 10].

<sup>24</sup> *Century Services*, at [para. 15](#), BOA [TAB 8].

<sup>25</sup> *Ibid*, at [para. 59](#).

<sup>26</sup> *Ibid*, at [para. 70](#).

- (d) To create conditions for preserving the status quo while attempts are made to find common ground amongst stakeholders for a reorganization that is fair to all.<sup>27</sup>

27. The Applicants meet the requisite criteria as outlined in *Mantle* and *Century Services*. Specifically,

- (a) The Applicants have not filed a proposal and therefore satisfy this statutory condition.
- (b) The Applicants have filed sufficient evidence demonstrating that a continuation under the CCAA will result in a sales process which the Applicants are optimistic will consummate in a value maximizing transaction for all stakeholders.<sup>28</sup> It is well established that though the BIA and CCAA serve the same remedial purpose, the CCAA process provides more flexibility than the rules based mechanisms offered in a proceeding under the BIA.<sup>29</sup>
- (c) The Applicants have acted appropriately, in good faith and with due diligence, for the duration of these insolvency proceedings.<sup>30</sup> By way of example, the Applicants reached an agreement with the Lenders resulting in the Consolidation Order being granted on consent.<sup>31</sup>
- (d) The Applicants have provided evidence which serves as a reasonable surrogate for the information required by section 10(2) of the CCAA.<sup>32</sup> Namely: a) the Cash Flow Forecast<sup>33</sup>; b) the Pre-Filing Report of the Monitor (to be filed); and c) copies

---

<sup>27</sup> *Ibid*, at para. 77.

<sup>28</sup> Young Affidavit at para. 10.

<sup>29</sup> *Century Services*, at para. 15, BOA [TAB 8].

<sup>30</sup> *Century Services*, at para. 70, BOA [TAB 8].

<sup>31</sup> Young Affidavit at paras. 92-93.

<sup>32</sup> CCAA, s. 10(2), BOA [TAB 3].

<sup>33</sup> To be appended to the Pre-Filing Report of the Monitor.

of all financial statements prepared during the year before the Application.<sup>34</sup> All requisite information will be in the hands of this Court by the date of the hearing.

28. The Applicants would benefit from the flexibility afforded under the CCAA to allow the restructuring proceeding to be conducted in a manner beneficial to all parties, with key participation from the Lenders.

29. Section 9(1) of the CCAA provides that an application under the CCAA may be made to the Court that has jurisdiction in the province in which the head office or chief place of business of the company in Canada is situated, or, if the company has no place of business in Canada, in any province within which any assets of the company are situated.<sup>35</sup> The Applicants conduct business in Alberta and have assets in the jurisdiction.

### **C. The Stay of Proceedings Should be Approved and Continued**

30. The current Stay Period expires on April 2, 2025, pursuant to the Consolidation Order. The Applicants are not seeking a further extension at this time. Instead, the Applicants request this Court's approval to take up and continue the existing stay of proceedings (the "**Stay of Proceedings**") under the CCAA.

31. Approving the existing Stay of Proceedings is appropriate under the circumstances. It is well established that the purpose of a CCAA stay is to give the debtor the "breathing room" required to restructure with a view to maximizing recoveries".<sup>36</sup> The Applicants require the "breathing room" of the stay to further their restructuring efforts and develop a SISF with a view to completing a value-maximizing transaction that will benefit all of their stakeholders.<sup>37</sup>

---

<sup>34</sup> 2023 Financial Statement and 2024 Financial Statement, attached as Exhibit "H" and Exhibit "I" to the Young Affidavit, BOA [TAB 1 and 2].

<sup>35</sup> CCAA, s. 9(1), BOA [TAB 3].

<sup>36</sup> *Target*, at para. 8, BOA [TAB 6].

<sup>37</sup> Young Affidavit at para. 10.

32. The Applicants have acted in good faith and with due diligence. The Applicants are currently developing a sale and investment solicitation process in consultation with the Lenders, with the assistance of the Monitor, and expect to seek approval of a SISP in due course.<sup>38</sup>

33. Section 11.02(1) of the CCAA permits this Court to grant an initial stay of up to 10 days on an application for an initial order, provided such a stay is appropriate and the applicants have acted with due diligence and in good faith.<sup>39</sup>

34. In cases where NOI proceedings have been converted under Section 11.6 of the CCAA, Courts have dispensed with the need for a comeback hearing as the proceeding is not considered “new” but rather a continuation of an existing insolvency proceeding.

35. In *The Body Shop Canada Limited*<sup>40</sup>, the Ontario Superior Court (Commercial List) dispensed with the need for a comeback hearing stating:

In my view, a comeback hearing within 10 days is both unnecessary and inefficient in that it will needlessly increase professional costs. Given that this is a transition proceeding, all affected parties are on notice. The usual considerations that may apply on an Initial Order application, and the imperative for very limited relief sought on what is usually an *ex parte* basis, do not apply the circumstances. The affected parties are here. Moreover, the proposed order contains the usual comeback clause such that any party who seeks to have the order amended or vacated has the ability to do so. The basis for the proposed stay is fully set out in the materials and described above. Practically, nothing is going to have changed within the next 10 days. Moreover, the relief sought in the CCAA Initial Order is not new in the sense of being novel nor is it new even to the parties affected by this proceeding. Rather, it is simply an extension of the relief already granted in this NOI proceeding. Simply put, there is no utility in a hearing within that period of time.

For these reasons, the motion to convert and continue is more analogous to a motion contemplated under section 11.02(2) than section 11.02(1) of the CCAA. Pursuant to section 11.02(2), the Court may grant an extension of the stay for any period of time the Court thinks necessary where the Court is satisfied that: a) circumstances exist that make the order appropriate; and b) the applicant has acted, and is acting, in good faith and with due diligence. Those requirements are met here for the reasons set out above.

---

<sup>38</sup> Young Affidavit at para. 12.

<sup>39</sup> CCAA, s. 11.02(1), BOA [TAB 3]

<sup>40</sup> *The Body Shop Canada Limited et al.*, [Endorsement of Osborne J. dated July 5, 2024 \(ONSC, Commercial List\)](#) at paras. 20-21, BOA [TAB 11].

36. The Applicants submit that a 10-day comeback hearing is not necessary in this instance as stakeholders have had notice of the NOI proceedings and have been provided notice of this application.

37. In the alternative, this Court may deal with the Initial Order at the same time as the comeback hearing to allow both hearings to proceed at the same appearance. This Court dealt with conversion motions in this manner in *420 Premium Investments Ltd.*<sup>41</sup>

**D. The Appointment of A&M as the Monitor Should be Approved**

38. The Applicants seek the appointment of A&M as the Monitor in these proceedings. A&M has consented to act as Monitor, subject to Court approval.<sup>42</sup> A&M is familiar with the operations of the Applicants, has reviewed the cash flow projections prepared by the Applicants, and has provided guidance and assistance in the commencement of this CCAA proceeding.<sup>43</sup>

**E. The Amended Administration Charge Should be Extended to the Monitor and its Counsel**

39. The Applicants seek the approval and continuation of the Amended Administration Charge in the CCAA Proceeding. The Administration Charge granted in the NOI Proceeding secured the professional fees and disbursements of the Applicants' legal counsel, the proposal trustee, and the proposal trustee's counsel up to a maximum amount of \$300,000. The Applicants seek to continue the Amended Administration Charge and to extend the Amended Administration Charge to secure the professional fees and disbursements of the Monitor, the Monitor's counsel, and the

---

<sup>41</sup> *420 Investments Ltd. et al.*, [Initial Order dated September 19, 2024](#); [ARIO dated September 19, 2024](#); [SISP Approval Order dated September 19, 2024](#), BOA [TABS 12, 13, 14].

<sup>42</sup> Young Affidavit at para. 104.

<sup>43</sup> Young Affidavit at para. 105.

Applicants' counsel, incurred at their normal rates and charges both before and after the date of the Initial Order.<sup>44</sup>

40. Section 11.52 of the CCAA provides the Court with jurisdiction to grant an administration charge,

**Court may order security or charge to cover certain costs**

**11.52 (1)** On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a debtor company is subject to a security or charge — in an amount that the court considers appropriate — in respect of the fees and expenses of

(a) the monitor, including the fees and expenses of any financial, legal or other experts engaged by the monitor in the performance of the monitor's duties;

(b) any financial, legal or other experts engaged by the company for the purpose of proceedings under this Act; and

(c) any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for their effective participation in proceedings under this Act.

**Priority**

(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.<sup>45</sup>

41. The following factors have been considered by CCAA Courts when granting an administration charge:

(a) the size and complexity of the businesses being restructured;

(b) the proposed role of the beneficiaries of the charge;

(c) whether there is an unwarranted duplication of roles;

(d) whether the quantum of the proposed charge appears to be fair and reasonable;

---

<sup>44</sup> Initial Order at para. 29.

<sup>45</sup> CCAA, s. 11.52, BOA [TAB 3].

- (e) the position of the secured creditors likely to be affected by the charge; and
- (f) the position of the Monitor.<sup>46</sup>

42. The requested Amended Administration Charge satisfies all of the above considerations:

- (a) the Applicants' Business is conducted across provinces in a highly regulated industry.<sup>47</sup> The Applicants' combined leasehold is made up of over 100 leases and permits covering more than 550,000 acres of prospective helium rich lands.<sup>48</sup> Any sale or other form of restructuring will necessarily be complex given the nature of the oil and gas industry (specifically helium gas), regulatory considerations, and the stakeholders involved.
- (b) all of the beneficiaries of the Amended Administration Charge have and will continue to contribute to the restructuring efforts of the Applicants;
- (c) the maximum amount of \$300,000 for the Amended Administration Charge is supported by the Monitor, in consultation with the Applicants and the Lenders.
- (d) there will be no unwarranted duplication of roles amongst the beneficiaries of the charge. Each of the Applicants, the Monitor, and their respective counsel serve a distinct role in these insolvency proceedings.

#### **F. The Cash Management System Should be Approved**

43. The Applicants seek authority to continue to use their existing Cash Management System to fund the restructuring and meet their obligations as they become due on a go forward basis. Continued use of the existing Cash Management System will prevent any disruption that may

---

<sup>46</sup> *Mantle*, at [para. 40](#), BOA [TAB 9] citing *Canwest Publishing Inc / Publications Canwest Inc Re*, 2010 ONSC 222, BOA [TAB 15].

<sup>47</sup> Young Affidavit at paras. 21-26.

<sup>48</sup> Young Affidavit at paras. 2, 30-31, 32-32.

result from the restructuring and assist current management by allowing payments to flow in the normal course.

44. The Applicants have made the Pre-Filing Payments contemplated in the Consolidation Order, with the exception of one vendor, the engineering and design firm, that has yet to invoice for its services.<sup>49</sup> The Applicants have also amortized repayment of arrears owed to their consultant, Lee Ann East, over a 10-week period, as reflected in the Cash Flow Forecast. The Applicants have also made payment in satisfaction of all invoices for the Proposal Trustee and its counsel, as reflected in the Cash Flow Forecast.<sup>50</sup>

## V. CONCLUSION

45. The Applicants respectfully request that the relief sought in the Initial Order be granted. All of the relief sought is necessary for the Applicants and for the benefit of its stakeholders.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 10<sup>TH</sup> DAY OF FEBRUARY 2025**



---

**Reconstruct LLP**  
Caitlin Fell/ Sharon Kour  
Counsel for the Applicants

---

<sup>49</sup> Young Affidavit at paras. 96-97; Cash Flow Forecast, to be appended to the Pre-Filing Report of the Monitor.

<sup>50</sup> *Ibid.*

## VI. TABLE OF AUTHORITIES

### EXHIBITS

1. Exhibit “H” to the Affidavit of David Young sworn February 10, 2025, being the financial statements of the Applicants for the year ending December 31, 2023;
2. Exhibit “I” to the Affidavit of David Young sworn February 10, 2025, being the unaudited financial statements of the Applicants for the period ending September 30, 2024;

### STATUTES

3. *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, sections 2(1), 3, 9(1), 11, 10(2), 11.001, 11.02, 11.52, and 11.6;
4. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, section 2;

### CASE LAW

5. *Stelco Inc (Re)*, 2004 CanLII 24933 (ONSC);
6. *Re Target Canada Co.*, 2015 ONSC 303;
7. *Laurentian University of Sudbury*, 2021 ONSC 659;
8. *Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60;
9. *Mantle Materials Group, Ltd (Re)*, 2024 ABKB 19;
10. *(Re) Clothing for Modern Times Ltd.*, 2011 ONSC 7522;
11. *The Body Shop Canada Limited et al.*, Endorsement of Osborne J. dated July 5, 2024 (ONSC, Commercial List);
12. *In the Matter of the Compromise or Arrangement of 420 Investments Ltd., 420 Premium Markets Ltd., Green Rock Cannabis (EC 1) Limited and 420 Dispensaries Ltd*, Initial Order dated September 19, 2024;
13. *In the Matter of the Compromise or Arrangement of 420 Investments Ltd., 420 Premium Markets Ltd., Green Rock Cannabis (EC 1) Limited and 420 Dispensaries Ltd*, Amended and Restated Initial Order dated September 19, 2024;
14. *In the Matter of the Compromise or Arrangement of 420 Investments Ltd., 420 Premium Markets Ltd., Green Rock Cannabis (EC 1) Limited and 420 Dispensaries Ltd*, SISP Approval Order dated September 19, 2024; and
15. *Canwest Publishing Inc / Publications Canwest Inc Re*, 2010 ONSC 222.