

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**BETWEEN:**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF HUDSON'S BAY COMPANY ULC COMPAGNIE DE LA BAIE D'HUDSON  
SRI, HBC CANADA PARENT HOLDINGS INC., HBC CANADA PARENT  
HOLDINGS 2 INC., HBC BAY HOLDINGS I INC., HBC BAY HOLDINGS II  
ULC, THE BAY HOLDINGS ULC, HBC CENTERPOINT GP INC., HBC YSS 1  
LP INC., HBC YSS 2 LP INC., HBC HOLDINGS GP INC., SNOSPMIS  
LIMITED, 2472596 ONTARIO INC., and 2472598 ONTARIO INC.**

**Applicants**

**WRITTEN SUBMISSIONS OF PATHLIGHT CAPITAL  
(Motion – July 15, 2025)**

July 15, 2025

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Lawyers for Pathlight Capital

## PART I - OVERVIEW

1. ReStore Capital, LLC, in its capacity as agent (the “**Hilco Agent**”) to a syndicate of lenders (the “**FILO Lenders**”) that are secured creditors of the Applicants seek an Order that, among other things, directs the termination of the Central Walk APA<sup>1</sup> and the disclaimer of the leases that are to be sold pursuant to the Central Walk APA (collectively, the “**Hilco Relief**”).

2. The Hilco Relief is being sought notwithstanding that:

- (a) the Central Walk APA has been identified as the “Successful Bid” pursuant to, and in accordance with, the terms of the Lease Monetization Process Order granted by this Court on March 21, 2025 (the “**Lease Monetization Order**”) and the lease monetization process (the “**Lease Monetization Process**”) approved therein;
- (b) HBC is pursuing the completion of the Central Walk Transaction under, and in accordance with, the authority provided to it by the Court by way of the Lease Monetization Order; and
- (c) the Central Walk APA stands to generate significant proceeds for the Applicants’ estate.

3. The Hilco Motion Record and related factum in support of the Hilco Relief can be distilled to one point: the Hilco Agent believes that the Lease Monetization Order should be overridden and the customary manner of pursuing value maximization in a CCAA proceeding should be ignored, while disregarding the prospect of significant creditor recovery, due to concerns with the allocation of costs to seek to complete the Central Walk Transaction. However, cost allocation has nothing

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<sup>1</sup> Defined terms in these submissions, unless otherwise specified, have the same meaning as in the [Motion Record](#) dated July 8, 2025 that was filed by the Hilco Agent in support of the Hilco Relief (the “**Hilco Motion Record**”).

to do with the viability of the Central Walk Transaction and by no means justifies a departure from the Court-approved Lease Monetization Process through the exceptional relief being sought by the Hilco Agent.

## **PART II - SUBMISSIONS**

### **A. The Hilco Agent Unjustifiably Seeks to Override the Lease Monetization Order**

4. The purpose of the Lease Monetization Process approved by this Court was to seek and implement one or a combination of transactions in respect of a significant asset of HBC, its leases, including by way of sale and assignment transactions.<sup>2</sup> The Fifth Report of the Monitor dated June 19, 2025 (the “**Fifth Report**”) details the extensive efforts that were taken to solicit bids for HBC’s leases, each as prescribed by the Lease Monetization Order<sup>3</sup>. Ultimately, these efforts led to HBC executing the Central Walk APA. The costs involved in these efforts were paid for out of the general funds of the Applicants in the same manner as all asset monetization activities have been paid in this proceeding to date.

5. The Lease Monetization Order provides that the Monitor will supervise, in all respects, the Lease Monetization Process.<sup>4</sup> The Central Walk APA is the product of the Lease Monetization Process, the business judgment of HBC’s board of directors and the Monitor’s supervision. It was also agreed to by both the Hilco Agent and Pathlight at the time of the execution of the Central Walk APA.<sup>5</sup>

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<sup>2</sup> [Lease Monetization Process](#), Introduction.

<sup>3</sup> [Fifth Report](#), Section 4.

<sup>4</sup> [Lease Monetization Process](#), Section 2.

<sup>5</sup> [Affidavit of Michael Culhane](#), sworn July 13, 2025, paragraph 53.

6. HBC is in the final stages of the Court-Ordered Lease Monetization Process, and there is no reason to prematurely terminate same and to eliminate the prospect of significant additional funds being realized by the estate. To the extent that there are issues with the Central Walk Transaction or the assignments contemplated therein, those are to be considered at a motion for an approval and vesting order or assignment order supported by corresponding motion materials and evidence.

7. The Hilco Agent suggests that this Court “can find now, on the evidence before it, that the Central Walk APA should not and cannot be approved”.<sup>6</sup> This “evidence” appears to simply be that there are costs associated with pursuing the Central Walk APA, and that the Hilco Agent believes that the costs may be indirectly borne by the FILO Lenders on the basis of an assumption that they are the fulcrum creditors.

8. Pathlight disagrees with this assumption, as does HBC.<sup>7</sup> Furthermore, this assumption only gives rise to a potential intercreditor issue in the future and has nothing to do with the viability of the Central Walk Transaction and its potential to maximize value from the Applicants’ estates. Sections 11.3 and 36 of the CCAA set out factors to be considered by the Court in the context of a motion for an assignment order and an approval and vesting order, respectively. Neither of these provisions contemplate cost allocation issues as a guiding (let alone relevant) factor.

**B. HBC Cannot Terminate the Leases While the Central Walk APA is in Place**

9. There is no basis on which the Court ought to terminate, or direct the termination, of the Central Walk APA. So long as the Central Walk APA is in place, HBC cannot disclaim the

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<sup>6</sup> [Factum of the Hilco Agent](#) dated July 12, 2025, paragraph 53.

<sup>7</sup> [Affidavit of Michael Culhane](#), sworn July 13, 2025, paragraph 16.

underlying leases. Such disclaimers would be an obvious breach of the Central Walk APA and would preclude the prospect of implementing the Central Walk Transaction.

### **C. Intercreditor Considerations**

10. Potential intercreditor issues, such as cost allocation, cannot justify the Hilco Relief. However, to the extent this Court were to consider the intercreditor issues raised by the Hilco Agent, it is critical that this Court be aware of the fact that the Hilco Agent's motion is a clear breach of the Intercreditor Agreement. Specifically, section 6.4 of the Intercreditor Agreement<sup>8</sup> provides that "The ABL Agent agrees, on behalf of itself and the ABL Secured Parties, that it will not oppose (and shall be deemed to have consented to) any sale consented to by the Term Loan Agent of any Term Loan Priority Collateral...so long as the Proceeds received by the Term Loan Agent of such sale are applied in accordance with this Agreement." The Central Walk APA involves the sale of the Term Loan Priority Collateral and the Pathlight Lenders consent to it. Accordingly, the Hilco Agent cannot seek the Hilco Relief and in fact has been deemed to consent to the sale represented by the Central Walk Transaction.

11. Pathlight's U.S. counsel, Choate Hall & Stewart LLP, provided the Hilco Agent with a letter advising of this on July 10, 2025 (the "**Choate Letter**"). A copy of the Choate Letter is attached as Exhibit "A" hereto. A response to U.S. Counsel from the Hilco Agent is attached as Exhibit "B" (the "**Hilco Response**"). Pathlight's view is that the Hilco Response reflects an incorrect interpretation of one provision to indirectly seek to override the clear terms of another and the entire purpose of the Intercreditor Agreement that allows each party the clear authority to consent to matters relating to their own priority collateral without interference from the other party. Further, to the extent intercreditor arrangements are relevant, the proper interpretation would need

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<sup>8</sup> [Affidavit of Ian Fredericks](#), sworn July 8, 2025, Exhibit E.

to be brought at a different motion, with proper legal and evidentiary support, in the context of the Intercreditor Agreement being governed by New York law.

12. If intercreditor issues are not relevant to the Hilco Relief, there is no basis to grant same. If intercreditor issues are relevant to the Hilco Relief, then the Hilco Agent cannot seek same. In both circumstances, the Hilco Relief should not be granted.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 15th day of July, 2025.

**EXHIBIT “A”**  
**CHOATE LETTER**

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July 10, 2025

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**VIA ELECTRONIC MAIL**

**Re: Hudson's Bay Company ULC ("HBC ULC")**

My firm represents Pathlight Capital, LP ("**Pathlight**"). We write to you in our capacity as counsel to Pathlight with respect to the ongoing proceedings under the *Companies' Creditors Arrangement Act* of HBC ULC and certain of its affiliates (collectively, "**HBC**"). Capitalized terms that are not defined herein have the meanings ascribed thereto in the FILO Motion Record.

We received your Notice of Motion ("**Motion**") and accompanying exhibits dated July 8, 2025, which you filed in Ontario Superior Court of Justice docket no. CV-25-00738613 ("**HBC Matter**") on behalf of Hilco/ReStore Capital, LLC ("**ReStore**"), an ABL Secured Party, in its capacity as agent ("**FILO Agent**"), on behalf of a syndicate of lenders ("**FILO Lenders**"). As set forth in greater detail below, the Motion seeks legal remedies in violation of Hilco/ReStore's contractual obligations. In particular, the Motion seeks an order that:

- (i) HBC distribute \$6 million to Hilco/ReStore as FILO Agent;
- (ii) Compels the Monitor to cause HBC to "terminate the Asset Purchase Agreement among Hudson's Bay Company ULC Compagnie de la Baie D'Hudson SRI ("**HBC**"), as vendor, Ruby Liu Commercial Investment Corp., as purchaser, and Weihong Liu as Guarantor dated May 23, 2025 (the "**Central Walk APA**"), as well as the transaction subject thereto (the "**Central Walk Transaction**")"; and,

(iii) Compels the Monitor to “immediately disclaim all of its remaining leases subject to the Central Walk APA for which a transaction has not closed and that are not subject to any other potential transaction.”

*Mot.* at 2.

These actions by Hilco/ReStore are in direct contravention of the express terms of the Second Amended and Restated Intercreditor Agreement between Bank of America, N.A. and Pathlight, dated December 23, 2024 (“**Intercreditor Agreement**”), which binds Hilco/ReStore as an ABL Secured Party thereunder, and the Consent to Intercreditor Agreement among (a) Bank of America, N.A., (b) Pathlight, (c) Hilco/ReStore, and (d) the Loan Parties dated March 17, 2025 (“**Consent**”). Accordingly, we write to remind you of Hilco/ReStore’s obligations under each of the Consent and the Intercreditor Agreement, and to demand that Hilco/ReStore comply with its obligations. In that regard, several provisions of the Consent and of the Intercreditor Agreement bear emphasis.

First, as a threshold matter, Section 5 of the Consent ratified and confirmed that the provisions of the Intercreditor Agreement remain in full force and effect among the parties to the Consent and that the financing provided to the Loan Parties by Hilco/ReStore in the CCAA Proceedings is subject to the terms and provisions of the Intercreditor Agreement. In particular, Section 5 declares that “neither the Junior Agent [i.e., Hilco/ReStore] nor any Junior DIP / FILO Secured Party [i.e., also Hilco/ReStore] shall take any action, including any action with respect to the Loan Parties and the Term Loan Priority Collateral, or in the CCAA Proceedings, that are inconsistent with the agreements and covenants of the ABL Secured Parties set forth in the Intercreditor Agreement.” *Consent* at 4. The Consent thus compels Hilco/ReStore to respect Pathlight’s rights in the Term Loan Priority Collateral, as set forth in the Intercreditor Agreement and prohibits Hilco/ReStore from undermining the agreements and covenants set forth in the Intercreditor Agreement, as to which it remains directly bound as an ABL Secured Party. *Id.*

Second, Section 6.4 of the Intercreditor Agreement grants Pathlight the sole prerogative to approve any sale of Term Loan Priority Collateral. Indeed, Section 6.4 of the Intercreditor Agreement declares that “The ABL Agent agrees, on behalf of itself and the ABL Secured Parties, that it will not oppose (and shall be deemed to have consented to) any sale consented to by the Term Loan Agent [i.e., Pathlight] of any Term Loan Priority Collateral . . . so long as the Proceeds received by the Term Loan Agent of such sale are applied in accordance with this Agreement.” *Intercreditor Agreement*, § 6.4. Put another way, to the extent Pathlight is supportive of a sale transaction with respect to Term Loan Priority Collateral, Section 6.4 grants Pathlight exclusive authority to sell such Term Loan Priority Collateral without any interference or objection from any ABL Secured Party—including Hilco/ReStore.

Section 5 of the Consent and Section 6.4 of the Intercreditor Agreement bar Hilco/ReStore from requesting that the Court (i) compel the Monitor and HBC to cancel the Central Walk APA and (ii) “immediately disclaim” leases subject to the Central Walk APA for which a transaction has not been consummated. As Hilco/ReStore’s motion concedes, “21 of the 28 Central Walk Leases are the priority collateral of Pathlight, not the FILO Lenders” under the Intercreditor Agreement. *Mot.* at 5; *see also Intercreditor Agreement* at 19 and Ex. A (listing “Specified Term Loan Leasehold Real Property”). So where, as here, Pathlight approved the sale of 21 Term Loan Priority Collateral leases through the Central Walk APA, each of the Consent and the Intercreditor Agreement unambiguously bar Hilco/ReStore from objecting to the sale.

In much the same vein, the Intercreditor Agreement and the Consent foreclose Hilco/ReStore’s request for an order that HBC disburse \$6 million to Hilco/ReStore. Section 4.1(c) of the Intercreditor Agreement—which Hilco/ReStore must adhere to as an “ABL Secured Party” under the Intercreditor Agreement and pursuant to Section 5 of the Consent—governs disbursement of proceeds from the sale of Term Loan Priority Collateral. By seeking a \$6 million payment from funds that Hilco/ReStore itself concedes are proceeds of Term Loan Priority Collateral, Hilco/ReStore’s pending motion attempts to frustrate this contractual provision by diverting these Term Loan Priority Collateral proceeds for its own use. That effort plainly breaches the Intercreditor Agreement and Section 5 of the Consent, which states that Hilco/ReStore may not perform “any action[s] . . . that are inconsistent with the agreements and covenants of the ABL Secured Parties set forth in the Intercreditor Agreement.” Hilco/ReStore must respect the waterfall and Pathlight’s priority interest in collateral sale proceeds constituting Term Loan Priority Collateral.

In closing, it bears emphasis that the legal arguments raised in this letter are not exhaustive. Pathlight continues to reserve all rights with respect to the Motion and to take all other actions that Pathlight deems appropriate.

Sincerely,



Samuel N. Rudman

cc: Mark Silva, Choate, Hall & Stewart, LLP, [msilva@choate.com](mailto:msilva@choate.com)  
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**EXHIBIT “B”**

**HILCO RESPONSE**



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Reference: 92962/2

July 11, 2025

VIA E-MAIL

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**RE: Hudson's Bay Company ULC ("HBC ULC")**

**Re: Letter dated July 10, 2025**

Mr. Rudman,

We write in response to your letter dated July 10, 2025 (the "**Pathlight Letter**"). Capitalized terms not otherwise defined herein have the meanings given to them in the Pathlight Letter.

The Pathlight Letter contains a number of mischaracterizations regarding the Motion filed by the FILO Agent, leading to your conclusion that Hilco/ReStore are in contravention of the Intercreditor Agreement. The relief sought by the FILO Agent does not contravene the Intercreditor Agreement. In fact, the opposite is true. The FILO Agent is simply taking steps to preserve and protect the ABL Priority Collateral which is expressly permitted under the Intercreditor Agreement. We specifically note the following.

First, as set out in the Affidavit of Ian Fredericks sworn July 8, 2025, the FILO Agent has stated on numerous occasions that it would not object to HBC's continued pursuit of the Central Walk Transaction if such costs are borne by the Pathlight Agent or Ruby Liu Corp. Pursuant to section 3.3(j) of the Intercreditor Agreement, the ABL Agent and the ABL Secured Parties are not obligated to pay any amounts to HBC for use and/or occupancy of Term Loan Priority Collateral. HBC is currently using cash that constitutes ABL Priority Collateral to fund rent in respect of the Term Loan Priority Collateral. The FILO Agent seeks termination of the Central Walk APA and disclaimer of the Central Walk Leases because the option value of these transactions are being funded solely with ABL Priority Collateral. The Intercreditor Agreement could not be clearer that Hilco/ReStore can object to the use of its cash collateral. If Pathlight and/or Ruby Liu Corp. provide adequate funding to pursue the Central Walk Transaction, then Hilco/ReStore would have no objection to the continued pursuit of the Central Walk Transaction. Simply speaking, the Intercreditor Agreement does not require the FILO Agent to finance the monetization of Term Loan Priority Collateral. If the Pathlight Agent thinks the Central Walk Transaction is accretive to its recovery, then it should provide financing to protect its collateral.

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Second, the FILO Agent does not seek distribution of any proceeds of sale of Term Loan Priority Collateral. The \$6 million of proceeds of the Undisputed Central Walk Leases (\$2 million of which constitutes the proceeds of sale of the FILO Agent's collateral) is not contemplated by the Fifth Cash Flow. The FILO Agent has requested a \$6 million distribution on the basis that there is now \$6 million in HBC's possession over and above their cash needs based on budgeted expenses. Accordingly, a \$6 million distribution to the FILO Agent from the ABL Priority Collateral is appropriate and does not contravene the Intercreditor Agreement.

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Yours truly,

A handwritten signature in cursive script that reads "Linc Rogers".

Linc Rogers

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985,  
c. C-36, AS AMENDED, AND IN THE MATTER OF HUDSON'S BAY COMPANY ULC  
COMPAGNIE DE LA BAIE D'HUSON SRI et al.**

Court File No.: CV-25-00738613-00CL

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

**WRITTEN SUBMISSIONS OF PATHLIGHT CAPITAL**

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