

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

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

AND DOMENICO SERAFINO AS A PERSON INTERESTED IN THE MATTER  
OF A PLAN OF COMPROMISE OR ARRANGEMENT OF HYDRX FARMS LTD.,  
CANNSCIENCE INNOVATIONS INC. AND SCIENTUS PHARMA INC.

(the "Applicant")

**FACTUM OF THE MOVING PARTY COBRA VENTURES INC.**

July 23, 2021

**DICKINSON WRIGHT LLP**  
Barristers & Solicitors  
199 Bay Street  
Suite 2200, Box 447  
Commerce Court Postal Station  
Toronto, ON M5L 1G4

**David P. Preger LSO# 36870L**  
Tel: (416) 646-4606  
[dpreger@dickinsonwright.com](mailto:dpreger@dickinsonwright.com)

**Lisa Corne LSO# 27974M**  
Tel: 416 646 4608  
[LCorne@dickinson-wright.com](mailto:LCorne@dickinson-wright.com)

**Jacky Cheung LSO# 79336H**  
Tel: 416 646 6878  
[JCheung@dickinson-wright.com](mailto:JCheung@dickinson-wright.com)

Lawyers for Cobra Ventures Inc.

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## PART I - INTRODUCTION

1. Cobra does not oppose a stay extension of 90 days provided that the Monitor's powers are enhanced in accordance with the draft order attached to Cobra's notice of motion. The effect of such order will be to divest Serafino of his management powers and make the Monitor a "super monitor". In light of the landscape shift arising from Justice Wilton-Siegel's dismissal of Serafino's attack on Cobra's right to credit bid the full amount outstanding under the Debenture, such order will appropriately re-balance control over HyDRx. It will afford all parties sufficient protection while Serafino's motion for leave to appeal is pending.

## PART II - SUMMARY OF FACTS

2. HyDRx Farms Ltd. ("**HyDRx**") is a corporation incorporated under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 (the "**CBCA**"). In 2017, HyDRx issued a senior secured convertible debenture in the principle amount of \$11.5M (the "**Debenture**") to Aphria Inc. ("**Aphria**"). The Debenture is secured against all of the property and undertaking of HyDRx and is registered against HyDRx's real property in Whitby, Ontario.<sup>1</sup>

3. In July 2020, Aphria agreed to sell the Debenture for \$5M to Cobra Ventures Inc. ("**Cobra**"). The sale closed on September 28, 2020. Richard Goldstein ("**Goldstein**") is a director of Cobra. Goldstein is also an indirect shareholder of Cobra.<sup>2</sup>

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<sup>1</sup> RE: IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND DOMENICO SERAFINO AS A PERSON INTERESTED IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF HYDRX FARMS LTD., CANNSCIENCE INNOVATIONS INC. AND SCIENTUS PHARMA INC., 2021 ONSC 4734 at para. 3, Book of Authorities of Cobra Ventures Inc. ("**BOA**"), Tab 1, p. 1-2 [June 30 Endorsement].

<sup>2</sup> June 30 Endorsement at para. 5, BOA, Tab 1, p. 2.

4. On September 6, 2020, the HydRx board of directors, apart from Serafino, resigned. On October 23, 2020, Goldstein and Rosie Mondin became directors of HydRx.<sup>3</sup>

5. On December 22, 2020, Goldstein caused Cobra to demand payment of the Debenture from HydRx and to issue notices of intention to enforce its security.<sup>4</sup>

6. On March 22, 2021, Serafino, as an “interested person”, sought and obtained an initial order under s. 11 of the CCAA with respect to HydRx. He took this step on an *ex parte* basis, as the board of directors, being comprised of only Serafino and Goldstein, was deadlocked. Schwartz Levitsky Feldman Inc. was appointed as the monitor (the “**Monitor**”).<sup>5</sup>

7. The premise of Serafino’s filing for CCAA protection is that a plan of arrangement could be achieved if the Court concluded that Goldstein breached his fiduciary duties to HydRx, and as a result, Cobra should be precluded from any recovery under the Debenture or alternatively, its recovery should be limited to the amount it paid for it.<sup>6</sup>

8. By order dated April 30, 2021, the Court established a claims process to determine the amount, if any, owing by HydRx to Cobra. On the same day, the Court approved a sale and investment solicitation process (the “**SISP**”) for HydRx.<sup>7</sup>

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<sup>3</sup> June 30 Endorsement at para. 8, BOA, Tab 1, p. 2.

<sup>4</sup> June 30 Endorsement at para. 11, BOA, Tab 1, p. 3.

<sup>5</sup> June 30 Endorsement at para. 14, BOA, Tab 1, p. 3.

<sup>6</sup> Responding Affidavit of Richard Goldstein sworn July 23, 2021 at para. 6 (“**Goldstein Affidavit**”), Responding Motion Record (“**RMR**”), Tab 2, pp. 19-20.

<sup>7</sup> June 30 Endorsement at para. 8, BOA, Tab 1, p. 2.

9. The motion to determine Cobra's claim against Hydrx was heard by Wilton-Siegel J. on June 30, 2021. Serafino raised three issues on the motion:<sup>8</sup>

- (a) whether Goldstein discharged his statutory duty of disclosure under s. 120 of the CBCA;
- (b) if not, whether Goldstein and Cobra are entitled to profit from Cobra's acquisition of the Debenture; and
- (c) if not, whether Hydrx is entitled to damages or protection from the economic loss resulting from Goldstein's breach of his statutory obligations as a fiduciary of Hydrx.

10. On the motion, Wilton-Siegel J. ordered that Cobra was entitled to credit bid up to the full amount of the indebtedness owing by Hydrx to Cobra under the Debenture, which was \$14,837,014.04 as of March 31, 2021. Wilton-Siegel J. found that Goldstein did not breach his fiduciary duty under section 120 of the CBCA, writing:<sup>9</sup>

First, and most importantly, I do not think that it is correct that any transactions involving the Debenture, or the assignment of the Debenture, constitute transactions with Hydrx for the purposes of s. 120. Section 120 pertains to contracts or transactions "with the corporation". None of the [transactions that Serafino complained about] constituted such a contract or a transaction.

...

Second, Serafino says that s. 120 should be interpreted liberally to catch all instances in which a director or officer of a corporation benefits from a transaction

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<sup>8</sup> June 30 Endorsement at para. 21, BOA, Tab 1, p. 4.

<sup>9</sup> June 30 Endorsement at paras. 28, 31, 33, and 42, BOA, Tab 1, pp. 6, 7, and 9.

involving the corporation ... However, there is no support for this interpretation of the scope of a “material transaction” in s. 120.

...

Third, Serafino acknowledges that he has been unable to identify any case law in which a court has applied s. 120 to a contract or transaction in which the corporation at issue was not a party. In fact, in the only case directly on point, *Roppvalente v. Daris*, 2020 ONSC 5290, 12 B.L.R. (6th) 145, while admittedly dealing with very different circumstances, Ryan Bell J. reached the opposite conclusion at para. 26:

Section 120(1) captures material contracts or transactions, or proposed material contracts or transactions, with the corporation – in this case, BCO Group. The s. 120 conflict of interest regime applies where a director or officer has an interest in a material contract with the corporation. ... Read in the context of the section as a whole, it is plain that the “contract or transaction” referred to in s. 120(8) that may be set aside must be (a) material, (b) with the corporation, and (c) one in which the director or officer is, directly or indirectly, a party, or has a material interest....

Lastly ... Serafino argues that Goldstein used his fiduciary position as a director of HydRx to orchestrate events in such a manner as to effect either an acquisition of the HydRx business for the \$5 million it cost Cobra to acquire the [Debenture] or a realization upon the assets of HydRx for his material personal benefit to the disadvantage of the stakeholders of HydRx that he was duty bound to protect. However, Serafino does not point to any action that Goldstein took as a director that had either effect.

11. On July 14, 2021, Serafino served a motion record for leave to appeal the order of Wilton-Siegel J.<sup>10</sup>
  
12. On July 20, 2021, Serafino brought a motion to extend the stay period in favour of HydRx until October 28, 2021.<sup>11</sup>

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<sup>10</sup> Notice of Motion for Leave to Appeal, Exhibit “H”, Affidavit of Domenico Serafino sworn July 20, 2021, Motion Record of the Applicant (“MPMR”), Tab 3H, pp. 149-188.

<sup>11</sup> Notice of Motion dated July 20, 2021, MPMR, Tab 1, pp. 1-8.

13. The common expectation of all parties is that the SISP will not generate an offer which exceeds the amount secured under the Debenture. Indeed, Serafino himself deposed in paragraph 99 of his Affidavit sworn May 20, 2021:<sup>12</sup>

Unlike Goldstein, it is my intention to restructure Hydrx through a plan of arrangement. This will be possible if the court accepts my position that the entitlement of Cobra/Goldstein should be limited to a maximum of actual dollars expended to acquire the Aphria Debenture and any additional advances proven to have been made by Cobra to Hydrx.

14. The clear inference to be drawn from Serafino's statement is that a plan of arrangement is not possible if the full amount owing under the Debenture can be credit bid.<sup>13</sup>

15. As it is a foregone conclusion that the SISP will not lead to a recovery greater than what is owing under the Debenture, the only party with an economic interest in this proceeding is Cobra.<sup>14</sup>

16. HydRx is attempting to operate an altogether different business than the business it was in before the Initial Order was made on March 22, 2021, and it is doing so without qualified management. It is attempting to become a landlord for other unlicensed companies to Piggy-back on the Hydrx license by generating fees from third parties who intend to manufacture cannabis products using HydRx's facilities and license. A business of that nature is inherently difficult to

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<sup>12</sup> Excerpts from the Affidavit of Domeinco Serafino sworn May 20, 2021, Exhibit A, Goldstein Affidavit, RMR, Tab 2A, pp. 24-26; Goldstein Responding Affidavit at para. 4, RMR, Tab 2A, p. 20

<sup>13</sup> Goldstein Responding Affidavit at para. 5, RMR, Tab 2, p. 20.

<sup>14</sup> Goldstein Responding Affidavit at para. 6, RMR, Tab 2, p. 20.

control in terms of assuring quality of product and is fraught with more risk than Cobra is prepared to absorb.<sup>15</sup>

17. Based upon the cash flow projections to October 29, 2021, assuming that such projections are achieved, they will only result in an increase of approximately \$32,000 in Hydrx's existing cash position. That is the best case scenario and unlikely to be achieved in light of Hydrx's historic failure to meet its revenue targets.

18. Moreover, the cash flow projections do not contemplate any debt service to the Debenture, under which approximately \$150,000 in monthly interest is accruing, or payments of realty taxes, which are in significant arrears.<sup>16</sup> The cash flow projections also do not reflect the full extent of Hydrx's liability for professional fees, but only the amounts to be drawn down in cash. Given the quantum of the consulting fees and restructuring professional fees involved over the projected 90 day period, and the execution risk associated with the new business model, Hydrx is of the view that this is not a commercially justified exercise.<sup>17</sup>

19. Although Serafino has given a personal indemnity to Hydrx in respect of equipment repairs and "Operating Losses", it does not extend to the accrual of interest under the Debenture, or to realty taxes, and Cobra has no insight into Serafino's creditworthiness. According to the parcel register in respect of Serafino's personal residence at 25 Country Lane, in Toronto, the property is not held in Serafino's name personally. The indemnity is cold comfort to Cobra.<sup>18</sup>

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<sup>15</sup> Goldstein Responding Affidavit at para. 7, RMR, Tab 2, pp. 20-21.

<sup>16</sup> Goldstein Responding Affidavit at para. 9, RMR, Tab 2, p. 21.

<sup>17</sup> Goldstein Responding Affidavit at para. 8, RMR, Tab 2, p. 21.

<sup>18</sup> Goldstein Responding Affidavit at para. 10, RMR, Tab 2, p. 21.



20. The comparison of Hydrx’s projected receipts and disbursements between the weeks of May 7 and July 16 to actual receipts and disbursements during that period reveals that under Serafino’s leadership, Hydrx has performed abysmally and has materially failed to meet any of its operating revenue targets. In the circumstances, Cobra has no confidence whatsoever in Serafino remaining at the helm of Hydrx.<sup>19</sup>

21. In Cobra’s view, Hydrx’s existing business should be wound down in an orderly manner and expenses should be kept to a bare minimum, solely to keep the “lights on”, secure the facility, and maintain the license.<sup>20</sup>

### **PART III - ISSUE**

22. The sole issue on this motion is whether the Monitor’s powers should be expanded as proposed in the draft order attached to Cobra’s notice of motion.

### **PART IV - LAW AND ANALYSIS**

23. The *CCAA* is intended to be a flexible statute that allows courts to entertain and develop solutions which fit the needs of various and diverse insolvency proceedings. Under this framework, a court may grant a monitor powers beyond those required to fulfill the traditional role of monitoring the debtor’s business and financial affairs and preparing reports for the court. This is reflected in sections 11 and 23 of the *CCAA*. Although section 23 of the *CCAA* sets out the basic duties and functions of a monitor, a court may augment these responsibilities under section 23(1)(k) by directing the monitor to carry out “any other functions in relation to the company”.

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<sup>19</sup> Goldstein Responding Affidavit at para. 11, RMR, Tab 2, p. 22.

<sup>20</sup> Goldstein Responding Affidavit at para. 12, RMR, Tab 2, p. 22.

Similarly, under section 11 of the CCAA, a court has the jurisdiction to make “any order that it considers appropriate in the circumstances”.<sup>21</sup> Section 11.02(2) of the CCAA also gives a court the jurisdiction to impose terms on any stay orders that are being sought.

24. The granting of expanded powers to a monitor is not at all unusual in CCAA proceedings and has been ordered in many CCAA cases across Canada.<sup>22</sup>

25. The enhancement of the Monitor’s powers, as set out in the proposed order, is intended to preserve the assets of HydrRx and ensure the continued orderly wind-down of HydrRx’s estate.

26. These proceedings have reached a natural transition point. It is clear from Wilton-Siegel J.’s June 30, 2021 Order that Cobra is the only party with any economic interest in HydrRx. There is no equity for HydrRx’s shareholders. There has been an abject failure on the part of HydrRx to achieve any of its projected operating revenue to date. Accordingly, it is appropriate and necessary for the Monitor to take on an enhanced role to ensure HydrRx’s financial position does not further deteriorate, and that Cobra’s security over the assets of HydrRx is protected during the stay period.

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<sup>21</sup> *Ernst & Young Inc v Essar Global Fund Limited*, 2017 ONCA 1014 at para. 106; see also *843504 Alberta Ltd., Re*, 2003 ABQB 1015 at paras. 13 and 14.

<sup>22</sup> See for example, *Entrec Corporation, Capstan Hauling Ltd., Entrec Capital Corp., Entrec Cranes & Heavy Haul Inc., Entrec Holdings Inc., Ent Oilfield Group Ltd., and Entrec Services Ltd.*, ABQB, Order granted November 24, 2020, BOA, Tab 2; *Accel Canada Holdings Limited and Accel Energy Canada Limited*, ABQB, Order granted April 30, 2020, BOA, Tab 3; *Walton International Group Inc. et al.*, ABQB, Order granted April 20, 2018, BOA, Tab 4; *Sanjel Corporation et al.*, ABQB, Order granted September 28, 2016, BOA, Tab 5; *Argent Energy Trust, Argent Energy (Canada) Holdings Inc. and Argent Energy (US) Holdings Inc.*, ABQB, Order granted June 27, 2016, BOA, Tab 6; *Broadacre Agriculture Inc., and Wigmore Farms Ltd.*, ABQB, Order granted July 29, 2015, BOA, Tab 7; *Poseidon Concepts Corp. et al.*, ABQB, Order granted September 27, 2013, BOA, Tab 8; *Fairwest Energy Corporation*, ABQB, Order granted May 29, 2013, BOA, Tab 9; *Carillion Canada Holdings Inc., Carillion Canada Inc., Carillion Canada Finance Corp., Carillion Construction Inc., Carillion Pacific Construction Inc., Carillion Services Inc., Carillion Services (FSCC) Inc., Bearhills Fire Inc., Outland Camps Inc., Outland Resources Inc., Rokstad Power GP Inc., 0891115 BC Ltd., Golden Ears Painting & Sandblasting Ltd., Plowe Power Systems Ltd., and Carillion General Partner (B.C.) Limited*, Ont. SCJ, Order granted October 18, 2019, BOA, Tab 10; *Comstock Canada Ltd.*, Ont. SCJ, Orders granted August 14, 2009 and October 3, 2012, BOA, Tab 11; *Nortel Networks Corporation*, Ont. SCJ, Orders granted August 14, 2009 and October 3, 2012, BOA, Tab 12; *North American Tungsten Corporation Ltd.*, BCSC, Order granted November 17, 2015, BOA, Tab 13.

In so far as Serafino disagrees, Cobra submits that giving the Monitor the enhanced powers to make such decisions represent a fair compromise over the coming 90 day stay extension.

**PART V - ORDER REQUESTED**

27. Cobra requests an order expanding the powers of Schwartz Levitsky Feldman LLP, in its capacity as court-appointed monitor of HyDRx, in the form attached to Cobra's notice of motion.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 23rd day of July, 2021.

Per: *Jacky Cheung*  
David P. Preger

July 23, 2021

**DICKINSON WRIGHT LLP**  
Barristers & Solicitors  
199 Bay Street  
Suite 2200, Box 447  
Commerce Court Postal Station  
Toronto, ON M5L 1G4

**David P. Preger LSO# 36870L**  
Tel: (416) 646-4606  
[dpreger@dickinsonwright.com](mailto:dpreger@dickinsonwright.com)

**Lisa Corne LSO# 27974M**  
Tel: 416 646 4608  
[LCorne@dickinson-wright.com](mailto:LCorne@dickinson-wright.com)

**Jacky Cheung LSO# 79336H**  
Tel: 416 646 6878  
[JCheung@dickinson-wright.com](mailto:JCheung@dickinson-wright.com)

Lawyers for Cobra Ventures Inc.

## SCHEDULE “A”

### LIST OF AUTHORITIES

1. *RE: IN THE MATTER OF THE COMPANIES’ CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND DOMENICO SERAFINO AS A PERSON INTERESTED IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF HYDRX FARMS LTD., CANNSCIENCE INNOVATIONS INC. AND SCIENTUS PHARMA INC.*, 2021 ONSC 4734.
2. [\*Ernst & Young Inc v Essar Global Fund Limited\*](#), 2017 ONCA 1014.
3. [\*843504 Alberta Ltd., Re\*](#), 2003 ABQB 1015.
4. *Entrec Corporation, Capstan Hauling Ltd., Entrec Capital Corp., Entrec Cranes & Heavy Haul Inc., Entrec Holdings Inc., Ent Oilfield Group Ltd., and Entrec Services Ltd.*, ABQB, November 24, 2020.
5. *Accel Canada Holdings Limited and Accel Energy Canada Limited*, ABQB, April 30, 2020.
6. *Walton International Group Inc. et al.*, ABQB, April 20, 2018.
7. *Sanjel Corporation et al.*, ABQB, September 28, 2016.
8. *Argent Energy Trust, Argent Energy (Canada) Holdings Inc. and Argent Energy (US) Holdings Inc.*, ABQB, June 27, 2016.
9. *Broadacre Agriculture Inc., and Wigmore Farms Ltd.*, ABQB, July 29, 2015.
10. *Poseidon Concepts Corp. et al.*, ABQB, September 27, 2013.
11. *Fairwest Energy Corporation*, ABQB, May 29, 2013.
12. *Carillion Canada Holdings Inc., Carillion Canada Inc., Carillion Canada Finance Corp., Carillion Construction Inc., Carillion Pacific Construction Inc., Carillion Services Inc., Carillion Services (FSCC) Inc., Bearhills Fire Inc., Outland Camps Inc., Outland Resources Inc., Rokstad Power GP Inc., 0891115 BC Ltd., Golden Ears Painting & Sandblaksting Ltd., Plowe Power Systems Ltd., and Carillion General Partner (B.C.) Limited*, Ont. SCJ, October 18, 2019.
13. *Comstock Canada Ltd., Ont. SCJ*, August 14, 2009 and October 3, 2012.
14. *Nortel Networks Corporation, Ont. SCJ*, August 14, 2009 and October 3, 2012.
15. *North American Tungsten Corporation Ltd.*, BCSC, November 17, 2015.

**SCHEDULE “B”**

**TEXT OF STATUTES, REGULATIONS & BY - LAWS**

1. *Canada Business Corporations Act*, RSC 1985 c C-44

**Disclosure of interest**

**120 (1)** A director or an officer of a corporation shall disclose to the corporation, in writing or by requesting to have it entered in the minutes of meetings of directors or of meetings of committees of directors, the nature and extent of any interest that he or she has in a material contract or material transaction, whether made or proposed, with the corporation, if the director or officer

- a) is a party to the contract or transaction;
- b) is a director or an officer, or an individual acting in a similar capacity, of a party to the contract or transaction; or
- c) has a material interest in a party to the contract or transaction.

**Time of disclosure for director**

(2) The disclosure required by subsection (1) shall be made, in the case of a director,

- (a) at the meeting at which a proposed contract or transaction is first considered;
- (b) if the director was not, at the time of the meeting referred to in paragraph (a), interested in a proposed contract or transaction, at the first meeting after he or she becomes so interested;
- (c) if the director becomes interested after a contract or transaction is made, at the first meeting after he or she becomes so interested; or
- (d) if an individual who is interested in a contract or transaction later becomes a director, at the first meeting after he or she becomes a director.

## **Application to court**

(8) If a director or an officer of a corporation fails to comply with this section, a court may, on application of the corporation or any of its shareholders, set aside the contract or transaction on any terms that it thinks fit, or require the director or officer to account to the corporation for any profit or gain realized on it, or do both those things.

2. *Companies' Creditors Arrangement Act*, RSC 1985, c C-36

## **JURISDICTION OF COURTS**

### **General Power of Court**

11 Despite anything in the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

### **Stays, etc. — other than initial application**

11.02 (2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

(a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

## **MONITORS**

### **Duties and functions**

23 (1) The monitor shall

(a) except as otherwise ordered by the court, when an order is made on the initial application in respect of a debtor company,

(i) publish, without delay after the order is made, once a week for two consecutive weeks, or as otherwise directed by the court, in one or more newspapers in Canada specified by the court, a notice containing the prescribed information, and

(ii) within five days after the day on which the order is made,

(A) make the order publicly available in the prescribed manner,

(B) send, in the prescribed manner, a notice to every known creditor who has a claim against the company of more than \$1,000 advising them that the order is publicly available, and

(C) prepare a list, showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner;

(b) review the company's cash-flow statement as to its reasonableness and file a report with the court on the monitor's findings;

(c) make, or cause to be made, any appraisal or investigation the monitor considers necessary to determine with reasonable accuracy the state of the company's business and financial affairs and the cause of its financial difficulties or insolvency and file a report with the court on the monitor's findings;

(d) file a report with the court on the state of the company's business and financial affairs — containing the prescribed information, if any —

(i) without delay after ascertaining a material adverse change in the company's projected cash-flow or financial circumstances,

(ii) not later than 45 days, or any longer period that the court may specify, after the day on which each of the company's fiscal quarters ends, and

(iii) at any other time that the court may order;

(d.1) file a report with the court on the state of the company's business and financial affairs — containing the monitor's opinion as to the reasonableness of a decision, if any, to include in a compromise or arrangement a provision that sections 38 and 95 to 101 of the Bankruptcy and Insolvency Act do not apply in respect of the compromise or arrangement and containing the prescribed information, if any — at least seven days before the day on which the meeting of creditors referred to in section 4 or 5 is to be held;

(e) advise the company's creditors of the filing of the report referred to in any of paragraphs (b) to (d.1);

- (f) file with the Superintendent of Bankruptcy, in the prescribed manner and at the prescribed time, a copy of the documents specified in the regulations;
- (f.1) for the purpose of defraying the expenses of the Superintendent of Bankruptcy incurred in performing his or her functions under this Act, pay the prescribed levy at the prescribed time to the Superintendent for deposit with the Receiver General;
- (g) attend court proceedings held under this Act that relate to the company, and meetings of the company's creditors, if the monitor considers that his or her attendance is necessary for the fulfilment of his or her duties or functions;
- (h) if the monitor is of the opinion that it would be more beneficial to the company's creditors if proceedings in respect of the company were taken under the Bankruptcy and Insolvency Act, so advise the court without delay after coming to that opinion;
- (i) advise the court on the reasonableness and fairness of any compromise or arrangement that is proposed between the company and its creditors;
- (j) make the prescribed documents publicly available in the prescribed manner and at the prescribed time and provide the company's creditors with information as to how they may access those documents; and
- (k) carry out any other functions in relation to the company that the court may direct.



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Applicant

Court File No. CV-21-00659187-00CL

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COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**MOVING PARTIES' FACTUM**

**DICKINSON WRIGHT LLP**

Barristers & Solicitors  
199 Bay Street  
Suite 2200, Box 447  
Commerce Court Postal Station  
Toronto, ON M5L 1G4

**David P. Preger LSO# 36870L**

Tel: (416) 646-4606  
[dpreger@dickinsonwright.com](mailto:dpreger@dickinsonwright.com)

**Lisa Corne LSO# 27974M**

Tel: 416 646 4608  
[LCorne@dickinson-wright.com](mailto:LCorne@dickinson-wright.com)

**Jacky Cheung LSO# 79336H**

Tel: 416 646 6878  
[JCheung@dickinson-wright.com](mailto:JCheung@dickinson-wright.com)

Lawyers for Cobra Ventures Inc.