



SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00751289-00CL

DATE: OCTOBER 3RD, 2025

NO. ON LIST: 02

TITLE OF PROCEEDING:

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NORWOOD INDUSTRIES INC.

BEFORE: JUSTICE KIMMEL

PARTICIPANT INFORMATION

APPLICANT:

Name of Person Appearing	Name of Party	Contact Info
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RESPONDENT:

Name of Person Appearing	Name of Party	Contact Info
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ENDORSEMENT OF JUSTICE KIMMEL:

Background to the Motion and Relief Sought

- [1] The applicant, Norwood Industries Inc. ("Norwood"), seeks approval of a going concern sale of substantially all of its assets and certain related relief. The transaction (the "Transaction") with 1001355216 Ontario Inc. (the "Purchaser") was the highest and best offer identified following a robust sale process over nearly five months (the "SISP") that began before the commencement of these CCAA proceedings and continued afterwards,

under the supervision of the court appointed Monitor, KSV Restructuring Inc. (the "Monitor") and, before the appointment of the Monitor, its advisory branch.

- [2] Capitalized terms not otherwise defined in this endorsement shall have the meanings ascribed to them in the applicant's factum.
- [3] The Business is supported by approximately 49 employees, all located in Ontario. None of the employees are unionized and Norwood does not have a pension plan. The Transaction is expected to result in the ongoing employment of a substantial number of employees.
- [4] The Transaction is supported by the Monitor as well as Norwood's senior secured and fulcrum creditor, Monroe Capital Management Advisors LLC ("Monroe"). Monroe acts as agent for a syndicate of lenders that have financed the Norwood business. As at September 4, 2025, Norwood's indebtedness to Monroe was approximately USD\$20.4 million and CAD\$3.1 million.
- [5] Norwood retained G2 Capital Advisors LLC ("G2") to assist with a review of strategic alternatives, including a sale of the business. Counsel for Norwood also retained KSV Advisory Inc. ("KSV Advisory"), an affiliate of KSV, for the purpose of acting as a financial advisor and assisting with the strategic options available to Norwood. G2, with the assistance of Norwood's management, completed a robust SISP for over nearly five months prior to the CCAA filing. KSV Advisory was kept apprised of this process.
- [6] After the September 12, 2025 CCAA filing, Norwood, in consultation with G2, the Monitor and Monroe, determined that it would be prudent to provide a short additional time period to assist in obtaining the highest and best possible bid. Monroe agreed to provide limited additional financing to support this short extension of the SISP after the Initial Order. The resulting cashflow required a prompt closing during the first week of October, 2025, with any amounts payable thereafter to be funded through a transition services agreement with the potential purchaser.
- [7] Monroe has been closely involved in the SISP and supports the Transaction notwithstanding that it will incur a substantial shortfall on its debt. No other stakeholder has raised any opposition to the requested relief
- [8] The relief sought takes the form of the two orders, as follows:
 - a. a sale approval and vesting order (the "AVO"), among other things:
 - i. approving the Transaction contemplated by the Sale Agreement between Norwood and the Purchaser, authorizing Norwood to enter into the Sale Agreement, and granting related relief, including: A. granting customary releases of Norwood's sole independent director and its officers; B.

authorizing Norwood or the Monitor to file an assignment in bankruptcy when appropriate following the close of the Transaction; C. declaring that, following closing of the Transaction, Norwood is a company subject to CCAA proceedings and is a former employer all of whose employees in Canada have been terminated other than any retained to wind down its business operations for purposes of the Wage Earner Protection Program Act (Canada) ("WEPPA"); and D. sealing the Confidential Exhibit subject to closing of the Transaction or further order of the Court; and

- ii. authorizing Norwood to make a distribution or distributions of its net cash-on-hand, including the net proceeds of the Transaction, to Monroe, subject to a Holdback in an amount determined by Norwood in consultation with the Monitor, CRA and Monroe; and
- b. an order to enhance the Monitor's powers and terminate the CCAA proceedings (the "Enhanced Powers and CCAA Termination Order"), among other things:
- i. extending the stay of proceedings (the "Stay Period") from November 30, 2025 up to and including January 31, 2026 (the "Extended Stay Period");
 - ii. approving the activities of the Monitor, and the fees and disbursements of the Monitor and its counsel, including a fee accrual to the completion of these proceedings;
 - iii. terminating these CCAA proceedings and discharging KSV in its capacity as Monitor, effective upon the Monitor filing the Termination Certificate; and
 - iv. enhancing the powers and authority of the Monitor to facilitate closing the Transaction and the services contemplated by the Transition Services Agreement ("TSA"), under which the Purchaser has agreed to fund certain lease and employee costs after September 30, 2025.

The AVO

[9] The Transaction is expected to close immediately. The speed to Closing and funding from the Purchaser under the TSA are important factors in light of Norwood's limited cash position.

[10] The Monitor explains in its Second Report that:

The Monitor is of the view that there is urgency to complete the Transaction for the following reasons: a the Company is

without liquidity to continue to operate absent the continuing financial support of Monroe. Absent the Transaction, Monroe has advised the Company and the Monitor that it is not prepared to continue to fund the business; no other party is prepared to fund the Company's operations; c) the Company is incurring substantial negative cash flow that is projected to continue indefinitely; and d) the Company is under significant pressure from its stakeholders and the viability of the business is at significant risk if the Transaction is not completed immediately.

- [11] The Court has jurisdiction under s. 36 (3) of the CCAA to authorize the sale of assets outside the ordinary course of business in the course of a CCAA proceeding. Relevant factors that are present in this case for this approval to be granted include: that the sale process was reasonable; the Monitor approved the process and believes the sale is more beneficial than a bankruptcy; the fulcrum secured creditor supports the approval of the Transaction and no other stakeholders oppose it; and the Transaction appears to be fair and reasonable, in the circumstances: see *Target Canada Co. (Re)*, 2015 ONSC 2066, at para. 15.
- [12] The court must also consider the factors set out in *Royal Bank of Canada v. Soundair Corp.*, 1991 CanLII 2727 (ONCA), at para. 1, which also support the court approval the Transaction in the circumstances of this case, for the reasons outlined in paragraph 46 of the applicant's factum, and including the reasons for the Monitor's recommendation for the court to approve the Transaction and the AVO set out in section 9.0 of the Monitor's Second Report. I am satisfied that the applicant has made sufficient effort to obtain the best price, has considered the interests of all parties, that the process was carried out with efficacy and integrity, and without any apparent or identified unfairness.
- [13] In exercising the court's authority and discretion, an important factor is the CCAA objective of continuing the business as a going concern: see *Nortel Networks Corp et al (Re)*, 2009 CanLII 39492 (Ont SCJ (Commercial List)), at para. 40.
- [14] Where a debtor undertakes a comprehensive pre-filing sales process, an expedited approval of the resulting transaction may be warranted when the court is satisfied that the process was reasonable, that the monitor is satisfied that it was conducted fairly and produced the best available outcome, and that delay could risk loss of going-concern value without producing a better alternative for stakeholders: see *Sanjel Corp (Re)*, 2016 ABOB 295, at para. 112; *Tool-Plas Systems Inc (Re)*, 2007 CanLII 52727 (ONSC), at paras. 8-12.
- [15] One stakeholder contacted the Monitor asserting an ownership interest in one of the patents that is the subject of the Transaction and asked that it be excluded. The AVO only

transfers the Applicant's right, title and interest in and to the Purchased Assets described in the Sale Agreement. On that basis, this stakeholder has been asked to provide proof of its asserted ownership in the patent in question which, if established, will not form part of the Purchased Assets to be transferred to the Purchaser under the AVO. The Purchaser is aware of this asserted interest and that there is a possibility that this patent will not form part of the Purchased Assets and is prepared to proceed on the basis that it will only receive whatever interest the Applicant has in the patent.

- [16] The applicants' factum outlines all of the evidence that supports the legal tests for the various other heads of relief that are contained in the AVO. Precedents for the specific wording of various provisions of the AVO dealing with releases, WEPP declarations, the proposed name change of the Applicant, proposed distributions, authorization to make an assignment in bankruptcy and the sealing of confidential exhibits, all briefly addressed below.
- [17] The AVO contains customary releases of the current and former directors and officers of Norwood. These are justified, having regard to the factors set out in *Lydian International Limited (Re)*, 2020 ONSC 4006 (ONSC), at para. 54.
- [18] The record discloses that Norwood's director and officers were instrumental and necessary to the successful outcome of the SISP and the preservation of the business. They oversaw the marketing process, the negotiation of the Transaction, and maintained the company's operations during a period of significant financial distress, all of which preserved the value of the business for the benefit of all stakeholders. The proposed releases are appropriately limited and enhance the certainty and finality of the Transaction and the CCAA Proceedings.
- [19] The release language contains standard carve- outs and does not release any claims against Norwood itself, claims arising from fraud, wilful misconduct, or gross negligence, or any other claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA: see *In the Matter of a Plan of Compromise or Arrangement of Sandvine Corporation et al.*, 2025 ONSC 717.
- [20] Under the *Wage Earner Protection Program Act*, SC 2005, c 47, s 1 at ss. 5(1), 7(1), Wage Earner Protection Program Regulations, SOR/2008-222 at para. 3, eligible former employees of a company in CCAA proceedings can receive certain benefits, including in respect of unpaid termination and severance pay. For this to occur while a debtor company remains subject to CCAA proceedings, the court must first determine that the company meets the specific criteria set out in section 3.2 of the Wage Earner Protection Program Regulations, that: (i) the company is subject to CCAA proceedings; and (ii) the company is a "former employer all of whose employees in Canada have been terminated other than any retained to wind down its business operations".

- [21] Norwood is subject to the CCAA and it will be a former employer of its 49 employees who will be terminated by Norwood and/or transferred to the Purchaser but for the employees who assist with transition services and the wind-down. Canada Revenue Agency has agreed to the now revised proposed language in the AVO that grants a declaration to enable any eligible employees of Norwood who are not Transferred Employees to seek to access WEPPA benefits for severance and termination amounts during the transition and wind-down period. Similar relief has been granted in other cases, for example recently *In the Matter of a Plan of Compromise or Arrangement of Li-Cycle Holdings Corp, et. al.* (Court File No. CV-25-00743053-00CL), Approval and Vesting Order granted by the Honourable Justice Kimmel dated August 1, 2025 at para. 48; see also *In the Matter of a Plan of Compromise or Arrangement of the Body Shop Canada Limited* (Court File No. CV-24- 00723586-00CL), Ancillary Order granted by the Honourable Justice Osborne dated December 13, 2024 at para. 14.
- [22] Likewise, the requests for approval of the applicant's name change, to transfer the full benefit of the Business's goodwill to the Purchaser and to avoid post- Closing confusion in the marketplace between the Purchaser and the vendor shell, and for authorization for Norwood or the Monitor to make a future assignment in bankruptcy to finalize its affairs at the end of the transition services period, have been granted in other similar circumstances (see *Body Shop*, at paras. 3 (r) and 12), and are warranted in this case as well.
- [23] The approval of the proposed distribution to Munro is supported by the Monitor. The Second Report confirms that Monroe has security over substantially all Norwood's business and assets and that the Monitor obtained an opinion from counsel that, subject to assumptions and qualifications, Monroe's security is valid and enforceable. The exercise of discretion under s. 11 of the CCAA to authorize the requested distribution to Monroe is appropriate.
- [24] The parties are not aware of any prior-ranking claims other than amounts secured by the Charges, which are to be paid prior to any distribution and/or addressed by way of the Holdback. In light of the Holdback, and the significant shortfall to Monroe, no creditor is prejudiced. CRA has requested certain changes to the distribution language in the AVO pertaining to the Holdback, which has been incorporated.
- [25] The Applicant seeks an order sealing the Confidential Exhibit, which includes the purchase price to be paid for the Transaction (the "Sealing Order"). The only information contained in the Confidential Exhibit that is not contained in the redacted Purchase Agreement attached to the Third Rhett Affidavit is the purchase price and economic terms of the Transaction.
- [26] Courts have acknowledged that there is a public interest in the "general commercial interest of preserving confidential information" and in maximizing recoveries in an insolvency: see *Sherman Estate*, at para. 41; *Danier Leather Inc., Re*, 2016 ONSC 1044

at para 84. 61 69. The purchase price is commercially sensitive information that, if released, may jeopardize any subsequent attempts to market the assets and business of Norwood. This would impede the commercial interests of maximizing recoveries to the detriment of the stakeholders. As such, it is in the public interest to seal the Confidential Exhibit: see *Sherman Estate*, para. 41.

[27] The requested sealing order is appropriately limited only to the Confidential Exhibit and only until the closing of the Transaction or further order of the court. This achieves the appropriate balancing of the open court principle with the commercial interest in preserving confidential information to maximize recoveries, such that the benefits of the order outweigh its negative effects.

[28] **The Monitor shall be responsible for arranging for the filing the sealing of the Confidential Exhibit with the court clerk in a sealed envelope. The Monitor shall also be responsible for applying at the appropriate time for an Order unsealing of the Confidential Exhibit after the Transaction closes and before the final discharge.**

The Enhanced Powers and CCAA Termination Order

[29] The current Stay Period expires on November 30, 2025. Norwood seeks an extension of the Stay Period up to and including January 31, 2026. While Norwood anticipated that the TSA would be concluded by November 30, 2025, the Purchaser has requested an extension to January 31, 2026. The Purchaser is funding the applicant's cost of operations after September 30, 2025 so an updated cash flow is not required to support the Extended Stay Period.

[30] The Monitor supports this request and is of the view that the Applicant has acted and continues to act in good faith and due diligence and that it is just, convenient, necessary and in the best interests of Norwood and its stakeholders to grant the Extended Stay Period. This satisfies the requirements for the stay extension under s. 11.02 of the CCAA.

[31] The court has the power to grant a monitor expanded powers pursuant to sections 11 and 23(1)(k) of the CCAA. Section 11 provides this Court with broad discretion to "make any order that it considers appropriate in the circumstances," while subsection 23(1)(k) allows the court to require a monitor to carry out any other functions it may direct. It is appropriate to enhance a monitor's powers to act as a "super monitor" under the CCAA when necessary to implement transaction steps or wind down CCAA proceedings, as is the case here, where the debtor company will lack decision-makers due to the resignation of its board or management following the closing of a sale: see *Mountain Equipment Co-Operative (Re)*, 2020 BCSC 2037, at para. 9.

[32] It has become the practice of the court to periodically approve the activities of its court appointed officers to ensure that their activities are being conducted in a prudent and

diligent manner, and it is within the court's inherent jurisdiction to do so: see *Target Canada Co. (Re)*, 2015 ONSC 7574, at paras. 13-14 and 23. The approval of the First and Second Reports and the activities of the Monitor described therein has been made subject to the standard qualification that has become the Commercial List practice to include in these types of orders.

- [33] The professional fees claimed for the Monitor and its counsel are supported by fee affidavits and reflect the work that has been done during the applicable period see the last fee approval. The fees are commensurate with the tasks performed and are based on market rates. The Monitor considers the fees and hourly rates to be reasonable, and I find them to be fair, reasonable and justified in the circumstances: see *Bank of Nova Scotia v. Diemer*, 2014 ONCA 851, at paras 33 and 44-45.

Orders

- [34] For the above reasons, and the grounds further particularized in the material filed in support of this motion, I have signed the Approval and Vesting Order and Enhanced Powers and CCAA Termination Order today.

A handwritten signature in dark ink, appearing to read "Kimmel J.", written over a horizontal line.

KIMMEL J.

