

**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 IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
EVE & CO INCORPORATED, NATURAL MEDCO LTD. AND EVE & CO
INTERNATIONAL HOLDINGS LTD.**

(each an “Applicant” and collectively, the “Applicants”)

**THIRD REPORT OF THE MONITOR
SEPTEMBER 28, 2022**

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INTRODUCTION

1. On March 25, 2022, the Court heard an application by the Applicants (the “**CCAA Application**”) for an initial order pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (“**CCAA**”). Among other things, the Applicants sought a stay of proceedings to allow them an opportunity to restructure their business and affairs or effect a sale transaction.
2. BDO Canada Limited (“**BDO**”), as Proposed Monitor, prepared a report dated March 24, 2022 (the “**Proposed Monitor’s Report**”) to provide information to this Court for its consideration in respect of the Applicants’ CCAA Application.
3. On March 25, 2022 (the “**Filing Date**”), the Court granted an initial order (the “**Initial Order**”) that, among other things, appointed BDO as monitor of the Applicants in these CCAA proceedings (in such capacity, the “**Monitor**”), approved a stay of proceedings until April 4, 2022 (the “**Stay Period**”), approved certain Court-ordered charges, and approved the interim financing facility (the “**DIP Loan**”) to be provided by Deans Knight Private Credit GP Inc., as General Partner of Deans Knight Private Credit Limited Partnership and DK Strategic Yield U.S. GP LLC, as General Partner of DK Strategic Yield Master Trust Limited Partnership (the “**DIP Lender**”) and an initial charge in favour of the DIP Lender in the amount of \$1.2 million (the “**DIP Charge**”).
4. BDO prepared a report dated March 31, 2022 (the “**Monitor’s First Report**”) to provide information to this Court for its consideration in respect of the Applicants’ motion for, among other things an extension of the Stay Period to August 26, 2022, an increase in the Administration Charge and DIP Charge, and approval of a Sales and Investment Solicitation Process (the “**SISP**”).
5. On April 1, 2022, the Court granted an Amended and Restated Initial Order (the “**Amended and Restated Initial Order**”) that among other things:
 - a. Extended the Stay Period to August 26, 2022;
 - b. Confirmed and extended the appointment of BDO as Monitor;
 - c. Authorized the full amount of the DIP Loan from the DIP Lender, with borrowings not to exceed \$2,200,000;
 - d. Increased the Administration Charge to the maximum amount of \$500,000; and
 - e. increased the DIP Charge to the maximum amount of \$2,200,000.

The Administration Charge and the DIP Charge rank in priority to the security of Royal Bank of Canada (“**RBC**”) and the security of Brian Van Engelen and Joanne Van Engelen.

6. On April 1, 2022, the Court also granted the Sale Process Approval Order (the “**Sale Process Approval Order**”) authorizing the commencement of the SISP as fully described in Schedule “A” to the Sale Process Approval Order.

7. BDO prepared a report dated August 25, 2022 (the “**Monitor’s Second Report**”) to provide information to this Court for its consideration in respect of the Applicants’ motion for, among other things an extension of the Stay Period to September 30, 2022 and an increase in the Administration Charge and DIP Charge.
8. On August 26, 2022, the Court granted an Order (the “**Stay Extension Order**”) that among other things:
 - a. Extended the Stay Period to September 30, 2022;
 - b. Authorized the full amount of the DIP Loan from the DIP Lender, with borrowings not to exceed \$2,800,000;
 - c. Increased the Administration Charge to the maximum amount of \$700,000; and
 - d. increased the DIP Charge to the maximum amount of \$2,800,000.

PURPOSE

9. The purpose of this report is to provide information to the Court on:
 - a. the Applicants’ operations since the granting of the Stay Extension Order;
 - b. the Monitor’s activities since the granting of the Stay Extension Order;
 - c. the status of negotiations with the bidder who submitted the superior bid in the SISP, M4 Group Holdings Inc., (the “**Bidder**”) and was described in the Monitor’s Second Report;
 - d. the Applicants’ receipts and disbursements for the period from August 22, 2022 to the week ending September 25, 2022 compared to the cash flow forecast that was attached as Appendix “A” to the Monitor’s Second Report (the “**6-Week Cash Flow Forecast**”); and
 - e. the Applicants’ motion, returnable on September 29, 2022, for an order extending the Stay Period to October 14, 2022.

TERMS OF REFERENCE

10. In preparing this Report and making the comments herein, the Monitor has been provided with, and has relied upon, unaudited financial information, books and records prepared by the Applicants, discussions with management of the Applicants (“**Management**”), and information from other third-party sources (collectively, the “**Information**”). Except as described in this Second Report in respect of the Cash Flow Forecast:
 - a. the Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of such

information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards (“GAAS”) pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information; and

- b. some of the information referred to in this Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the Chartered Professional Accountants Canada Handbook, has not been performed.
11. Future oriented financial information referred to in this Report was prepared based on Management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variation could be significant.
12. Unless otherwise indicated, the Monitor’s understanding of factual matters expressed in this Report concerning the Applicants and their business is based on the Information, and not independent factual determinations made by the Monitor.
13. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

BACKGROUND

14. The Applicant, Eve & Co Incorporated (“Eve”), is a publicly-traded corporation listed on the TSX Venture exchange under the symbol ‘EVE’ and maintains its registered head office at 2941 Napperton Drive, Strathroy, Ontario, N7G 3H8 (the “**Real Property**”).
15. Eve does not directly hold any tangible assets, but wholly owns the Applicant, Natural Medco Ltd. (“NMC”), which is a licensed producer of cannabis in accordance with the *Cannabis Act* and the *Cannabis Regulations*.
16. NMC is the operating entity of the Applicants and owns the Applicants’ primary asset, consisting of a 1,000,000 square foot greenhouse facility (the “**Greenhouse**”) located on the Real Property, of which approximately 780,000 square feet was newly constructed in 2019.
17. NMC cultivates and produces dried cannabis flower, which along with certain additionally processed products such as topicals and edibles, are sold to recreational and medical consumers in several Canadian provinces. NMC supplies dried cannabis to international medical cannabis markets including Germany and Australia, with pending orders to Israel. None of the Applicants engage in any cannabis-related activities in the United States.
18. The Proposed Monitor’s Report provided background and a chronology of the Applicants’ licenses issued by Health Canada.

APPLICANTS' OPERATIONS SINCE THE STAY EXTENSION ORDER

19. This Report should be read in conjunction with the Affidavit of Melinda Rombouts sworn September 28, 2022 (the "**Rombouts Affidavit**").
20. The Applicants have continued operations with a reduced staff of 9 employees and continued to fill orders and collect accounts receivable from provincial customers. No Bulk (International) sales have been achieved since the Stay Extension Order.

MONITOR'S ACTIVITIES SINCE THE STAY EXTENSION ORDER

21. Since the granting of the Initial Order, the Monitor, among other things, has:
 - a. assisted the Applicants with stakeholder communications;
 - b. responded to calls, e-mails and letters received from creditors, employees and other parties with respect to these CCAA proceedings; and
 - c. reviewed the receipts and disbursements of the Applicants and prepared weekly cash flow statements for RBC, the Applicants' first secured lender, in accordance with the Amended and Restated Initial Order.
22. Since the granting of the Stay Extension Order, the Monitor has posted the Court materials to its website at <https://www.bdo.ca/en-ca/extranets/eve-co-incorporated-and-natural-medco-ltd/> (the "**Monitor's Website**").
23. As noted in the Monitor's Second Report, the Monitor, in conjunction with the Applicants, conducted the SISP in accordance with the Sale Process Approval Order. At the time of the Monitor's Second Report, the Monitor and the Applicants were in negotiations with the Bidder in respect of the terms, conditions, due diligence requirements and timing of its offer.
24. As outlined in the Rombouts Affidavit, the Applicants have worked with the Bidder to address its due diligence requests and advance the negotiations of an acceptable offer.
25. The Bidder provided an initial, refundable deposit of \$100,000 and initially advised that its due diligence would be completed by September 1, 2022. The Monitor's Mergers and Acquisitions group ("**BDO M&A**") worked with the Bidder to facilitate the completion of the due diligence.
26. Subsequently, the Bidder requested extensions of the date for the completion of its due diligence on several occasions. Given the financial position of the Applicants and the pending expiration of the Stay Period, the Monitor recently advised the Bidder of the need to complete their due diligence, waive conditions and provide an additional deposit.
27. The Bidder delivered their proposed Share Purchase Agreement (the "**SPA**") to the Applicants on Monday September 26, 2022 for the acquisition of the shares of NMC. The

Applicants, in consultation with the Monitor and RBC, have continued to negotiate with counsel to the Bidder in an effort to achieve an acceptable and executable SPA.

28. The Applicants require additional time to complete the negotiation of the SPA and the Monitor anticipates that a motion for the approval of a transaction will be imminently forthcoming.

APPLICANTS' RECEIPTS AND DISBURSEMENTS SINCE THE STAY EXTENSION ORDER

29. The Applicants, with the assistance of the Monitor, prepared the 6-Week Cash Flow Forecast for the period from August 22, 2022, to the week ending October 1, 2022 for the purpose of projecting the Applicants' estimated liquidity needs during the period of the proposed extension of the Stay Period. As noted, a copy of the 6-Week Cash Flow Forecast was attached as Appendix "A" to the Monitor's Second Report.
30. Upon the Court granting the Stay Extension Order and authorizing the increase in the DIP Loan in the amount of \$600,000, the following critical payments were made, as outlined in the Material Cash Flow Variances section of the Monitor's Second Report.
 - a. \$304,467 was paid directly by the DIP Lender to Purves Richmond Limited (the "**Insurance Broker**"), representing the balance of the premium owing on the insurance policy for the period July 4, 2022 to July 4, 2023, and thereby maintaining the insurance policy; and
 - b. \$104,364 was paid to Hydro One, representing outstanding post-filing hydro charges through July 31, 2022.
31. As outlined in the Monitor's Second Report, the Monitor has pre-approved all payments by the Applicants to suppliers since the Stay Extension Order.
32. A summary of the Applicants' actual receipts and disbursements for the period August 22, 2022 to the week ending September 24, 2022 (the "**Reporting Period**"), as compared to the 6-Week Cash Flow Forecast (the "**Variance Analysis**") is set out below:

**Eve & Co Incorporated /
Natural Medco Ltd.
Cash Flow Forecast for the period
August 22, 2022 to October 1, 2022
(CAD \$)**

WEEK ENDING	Weeks 1 - 5		
	8/27 to 9/24		
	Forecast	Actual	Variance
Beginning cash (deficit)	130,639	130,639	-
Receipts			
Provincial sales collected	98,285	163,397	65,113
Bulk (International) sales			
Other receipts	-	25	25
Total Receipts	98,285	163,422	65,138
Disbursements			
Salaries & Wages	61,641	74,416	12,776
Employee benefits			-
Production costs & supplies	10,150	15,324	5,174
Utilities	177,193	104,364	(72,829)
Property taxes			-
Insurance	420,467	420,517	50
Laboratory charges	2,200	1,597	(603)
Communications & Admin.	4,575	4,380	(196)
Purchased product			
Capital expenditures			
Audit, AGM and filing fees			
Government remittances			
HST/Health Canada			
Excise tax			
Mortgagee loan payments			
RBC			
Vanengelen			
BDO and legal fees			
Restructuring costs			
Total Disbursements	676,226	620,598	(55,628)
Net Cash Flow	(577,941)	(457,176)	120,765
DIP Loan advances		449,943	
Closing cash (deficit)	(447,302)	123,406	

33. During the Reporting Period, the Applicants experienced positive cash flow variances of \$123,765. Net cash flow for the reporting period was \$(457,176), excluding advances on the DIP Loan. Provincial sales collected exceeded forecast. As noted, major disbursements were the payments of the premium to the Insurance Broker and to Hydro One. The Variance Analysis does not include the Hydro One invoice for the period July 31, 2022 to August 31, 2022 in the amount of \$23,822, which is due on October 6, 2022. The Applicants cash balance at the start of the current week is \$123,406.
34. The Applicants have sufficient cash to fund operations through the proposed extended Stay Period. In addition, of the \$600,000 increase in the DIP Loan authorized by the Stay Extension Order, \$150,000 has not been advanced.

MATERIAL CASH FLOW VARIANCE

35. Since the Stay Extension Order, the Monitor became aware that the Applicants, commencing with the bi-weekly pay period ended July 9, 2022, funded several payrolls on a net pay basis, without remitting source deductions to the payroll service provider. These included the catch-up of payroll amounts owing to Management that had been deferred during 2021 and 2022 due to cash flow constraints. The non-remittance of source deductions did not conform with the 23-week cash flow forecast and assumptions included with the Proposed Monitor's Report, or the direction provided by the Monitor subsequent to the Filing Date.
36. For pay periods ended July 9, 2022 through September 3, 2022, the Applicants incurred additional source deduction liabilities to Canada Revenue Agency in the amount of \$91,323. Payroll for the pay period ended September 27, 2022 was correctly funded on a gross basis, including source deductions.

PROPOSED FURTHER STAY EXTENSION ORDER

37. The Applicants seek a further extension of the Stay Period from September 30, 2022 to October 14, 2022 to permit the Applicants to finalize the SPA and prepare Court materials to seek an approval and vesting order.
38. RBC has advised that it consents to the further extension of the Stay Period.

CONCLUSIONS AND RECOMMENDATIONS

39. The Monitor has reviewed the Applicants' materials for the hearing and supports the Applicants' request that the Court grant the extension of the Stay Period to October 14, 2022.

All of which is respectfully submitted this 28th day of September, 2022.

**BDO CANADA LIMITED,
in its capacity as Monitor of the Applicants,
and not in its corporate or personal capacity.**

**Stephen N. Cherniak, CPA, CA, CIRP
Senior Vice President
Licensed Insolvency Trustee**

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Court File No. CV-22-00678884-00CL

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SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced at Toronto, Ontario

**THIRD REPORT OF THE MONITOR
SEPTEMBER 28, 2022**

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