

District of: Ontario
Division No.: 09-Toronto
Court No.: BK-24-03038619-0031
Estate No.: 31-3038619

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

IN THE MATTER OF A NOTICE OF INTENTION TO MAKE
A PROPOSAL OF
BRR LOGISTICS LIMITED

**CASE CONFERENCE BRIEF OF WAL-MART CANADA CORP.
(Returnable March 20, 2024)**

March 19, 2024

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Lawyers for Wal-Mart Canada Corp.

TO: SERVICE LIST

District of Ontario
Division No. 09 – Toronto
Court No. 31-3038619
Estate No. 31-3038619

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT,
R.S.C 1985, C.B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
OF BRR LOGISTICS LIMITED

SERVICE LIST
(As at March 19, 2024)

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I N D E X

Tab	Description
1.	Case Conference Memorandum dated March 19, 2024
A	Appendix "A": March 14 Blakes Letter
B	Appendix "B": January 31 Walmart Letter
C	Appendix "C": February 12 BRR Letter
D	Appendix "D": Email dated February 23, 2024
E	Appendix "E": Email dated March 19, 2024

TAB 1

Case Conference Brief of Wal-Mart Canada Corp.

1. Wal-Mart Canada Corp. (“**Walmart**”) has prepared this case conference brief in reply to the case conference brief filed by BRR Logistics Limited (“**BRR**”) on March 19, 2024 (the “**BRR Brief**”).
2. Capitalized terms not otherwise defined herein have the meanings ascribed to them in the BRR Brief.
3. The Walmart dispute is comprised of two principal issues, (i) an overpayment which Walmart alleges is owing by BRR to Walmart in the amount of \$489,193.26 (the “**Overpayment**”), and (ii) a receivable that BRR alleges is owing by Walmart to BRR in the amount of \$1,797,142.65 (the “**Alleged Receivable**”). BRR requests that this Court schedule a motion for an expedited adjudication of the dispute with Walmart related to the Overpayment and Alleged Receivable.
4. Walmart submits that, given the likelihood that this matter can be resolved consensually, and the lack of any meaningful attempt on the part of BRR to resolve this matter consensually to date, it is premature to schedule the motion requested by BRR. With the benefit of adequate information and time, Walmart is confident that the parties can resolve this matter without the need for judicial intervention.

The Overpayment

5. As set out in paragraph 2 of the BRR Brief, Walmart was previously a customer of BRR.
6. On November 21, 2023, Walmart first became aware that BRR was submitting its invoices for goods contrary to the pricing scheme agreed to by Walmart and the authorized broker of BRR, Pazo Global LLC (the “**Broker**”), in May 2023. A copy of the May 26, 2023 email in which the Broker agrees to the pricing scheme is attached as Exhibit “A” to the letter sent by Blakes to MT

on March 14, 2024 (the “**March 14 Blakes Letter**”). Between May 26, 2023 and November 21, 2023, Walmart overpaid BRR in the amount of the Overpayment.

7. A copy of the notification of the Overpayment sent by Walmart to the Broker on November 21, 2023 is attached as Exhibit “B” to the March 14 Blakes Letter. A copy of email correspondence from the Broker confirming and apologizing for the Overpayment, and attaching a signed cost change form from BRR and an email from a representative of BRR noting that the system costing would be updated immediately is attached as Exhibit “C” to the March 14 Blakes Letter. For ease of reference, a copy of the March 14 Blakes Letter is attached hereto as **Appendix “A”**.

8. Due to BRR’s failure to repay the Overpayment, despite multiple follow-ups from Walmart, a hold was placed on BRR’s account with Walmart prior to the Filing Date and no further payments were made to BRR.

9. On the Filing Date, unaware of the filing of a notice of intention to make a proposal by BRR, Walmart sent a letter to BRR requesting repayment of the Overpayment (the “**January 31 Walmart Letter**”). Attached hereto as **Appendix “B”** is a copy of the January 31 Walmart Letter.

10. On February 12, 2024, Walmart received a response from BRR (the “**February 12 BRR Letter**”) . In this letter, for the first time, BRR alleged that the Overpayment was a result of an “attempt to unilaterally and retroactively impose a discount on the Account” by Walmart. Attached hereto as **Appendix “C”** is a copy of the February 12 BRR Letter.

11. Following receipt of the February 12 BRR Letter, Walmart retained Blakes as counsel. On February 23, 2024, Blakes requested evidence from MT to support BRR’s assertion that the Overpayment is in the nature of a retroactive discount. Attached hereto as **Appendix “D”** is a copy of the email wherein this request was made. To date, Walmart has not received any evidence to support or corroborate this version of events.

The Alleged Receivable

12. In the February 12 BRR Letter, also for the first time, BRR raised that Walmart owes BRR the Alleged Receivable and demanded payment of this sum within 7 days of the letter. While Walmart acknowledges that a hold was placed on BRR's account and that there are amounts owing by Walmart to BRR, the amount of Alleged Receivable is significantly higher than the amount reflected in Walmart's own accounting system.

13. At no time has Walmart agreed that the total Alleged Receivable is owing to BRR. On February 26, 2024, Blakes wrote to BRR (the "**February 26 Blakes Letter**") specifically noting that Walmart disagreed with the amount of the Alleged Receivable. A copy of the February 26 Blakes Letter is attached to the BRR Brief as Exhibit "B".

14. As set out at paragraph 6 of the BRR Brief, on February 26, 2024, Blakes requested information from MT to substantiate the Alleged Receivable. On the same date, MT provided a spreadsheet listing the amount of the Alleged Receivable but provided no substantiating invoices or purchase orders.

15. On March 1, 2024, MT provided over 1000 invoices to Blakes as support for the Alleged Receivable. Walmart immediately began to undertake the exercise of reconciling the Alleged Receivable with its own accounting system. Contrary to paragraph 10 of the BRR Brief, the March 14 Blakes Letter was not silent on the Alleged Receivable. Walmart informed BRR that it had undertaken this process in the March 14 Blakes Letter and advised that it would respond to BRR on that point in the near future.

16. Walmart fully intends to pay BRR the amount of any account receivable, once that amount has been determined. As noted, BRR has provided over 1000 invoices for Walmart to review and reconcile with its own system. While Walmart is working diligently to confirm any amounts owing

to BRR, given the number of invoices, this is a time-consuming process that remains ongoing. At this time, Walmart has confirmed that certain invoices submitted by BRR were paid already, and that others are for services that were never rendered, underscoring the importance of assessing the validity of every invoice.

17. On March 19, 2024, Blakes sent an e-mail to MT informing MT that, at this time, Walmart has confirmed that a minimum of approximately \$425,000 is owing by Walmart to BRR. On behalf of Walmart, Blakes informed MT that approximately \$425,000 would be released by Walmart to BRR, while Walmart continues the process of reconciling the invoices. Attached hereto as **Appendix "E"** is a copy of the e-mail sent by Blakes to MT.

18. Walmart is aware that this is a matter of some urgency for BRR due to BRR's projected cash-flow. While this is an unfortunate situation, it remains important that Walmart verify that the Alleged Receivable is correct.

19. Walmart therefore asks that, in considering BRR's request, the Court provide Walmart with sufficient time to complete its reconciliation exercise. Given the likelihood that this matter can be resolved consensually, provided that sufficient information is provided by each party to assess its position, Walmart submits that it would be an inefficient use of judicial resources to adjudicate this dispute before the parties have made any meaningful attempt at a consensual resolution.

APPENDIX “A”



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Caitlin McIntyre

Associate

Dir: 416-863-4174

caitlin.mcintyre@blakes.com

March 14, 2024

VIA E-MAIL

Miller Thomson LLP

Attention: Gregory Azeff/Monica Faheim

gazeff@millertomson.com /

mfaheim@millertomson.com

RE: In the Matter of BRR Logistics Limited (“**BRR**”) (Court File No. 31-3038619)

Dear Mr. Azeff and Ms. Faheim:

As you are aware, we are counsel to Wal-Mart Canada Corp. (“**Walmart**”) in connection with the above referenced matter. Capitalized terms not otherwise defined herein have the meanings given to them in my letter dated February 26, 2024.

We acknowledge receipt of the invoices related to the Receivable. Walmart is in the process of reconciling the invoices with its own records to determine the correct amount of the Receivable, if any. We will be back to you on this point in the near future.

We write to address the amount of \$489,193.26 owing to Walmart by BRR (the “**Overpayment**”) and to provide supporting documentation in respect of the Overpayment requested by you in your letter dated February 26, 2024.

The pricing of goods purchased by Walmart from BRR was negotiated on behalf of BRR by BRR’s authorized broker, Pazo Global LLC (the “**Broker**”). Pursuant to the email chain attached hereto as **Exhibit “A”**, with the last email therein being dated May 26, 2023, the Broker and Walmart agreed that the invoice cost of the purchased goods would be [REDACTED] and [REDACTED] per unit respectively.

Between May 2023 and November 2023, BRR incorrectly invoiced Walmart at a unit cost of [REDACTED] and [REDACTED] contrary to the agreement negotiated by the Broker on its behalf. On November 21, 2023, Walmart communicated this mistake to the Broker and requested that the Broker have BRR fill out a Cost Change Form as soon as possible to reflect the agreed costing. Walmart also noted in this email that the difference of what was owed to Walmart would need “to be billed in a COOP¹ for November”. A copy of this correspondence is attached hereto as **Exhibit “B”**.

¹ A “COOP” is a mechanism to collect money as a result of an agreement between a buyer and a supplier. COOP Agreements are commonly used to collect amounts owing that have not previously been collected.

On November 22, 2023, a representative of BRR wrote to the Broker noting that the system costing to Walmart would be updated immediately on a go forward basis and providing the requested Cost Change Form, thereby acknowledging its mistake in the previous price charged. The Broker then forwarded this form to Walmart with his apologies for the mistake. A copy of this correspondence is attached hereto as **Exhibit "C"**.

Walmart has been attempting to recover the Overpayment from BRR since late November 2023 without success. Walmart had several direct discussions to resolve the Overpayment with representatives of both Pazo Global and BRR (including Michael Wakefield), including on December 12th and 15th. In late December 2023, representatives of BRR stopped responding to Walmart entirely. As a result, on January 2, 2024, a legal hold was placed on BRR's account and no further payments were made to BRR, pending resolution of the Overpayment.

As the attached correspondence shows, from May 26th to November 23rd, 2023, BRR incorrectly invoiced Walmart contrary to the pricing scheme agreed to by Walmart and the Broker, on behalf of BRR. The Overpayment is a direct result of a mistake on the part of BRR, which mistake was acknowledged by the Broker. The Wakefield Affidavit makes no mention of these material facts. Rather, it falsely alleges that Walmart attempted to unilaterally impose a discount on past purchases. The request made by Walmart in November 2023 was in the nature of a correction, not a discount. Please review the attached correspondence in order to verify the veracity of Walmart's version of events and the authenticity of the Overpayment. We look forward to your response following completion of your review.

Yours very truly,



Caitlin McIntyre

EXHIBIT "A"

McIntyre, Caitlin

From: Gary Taylor <Gary.Taylor@Pazoglobal.com>
Sent: Friday, May 26, 2023 10:39 AM
To: Nicola Wepener
Subject: EXT: RE: Red Baron promotional plan FY24/FY25

EXTERNAL: Report suspicious emails to **Email Abuse**.

Hello!

Good to hear we are aligned on base VNPk Cost and pro-rating the promotional frequencies to ½ 12 weeks balance of FY24 not an issue. I will work with you on FY25 plan when we have some solid sales history to build on.

Regarding the \$ level of BDF request below-at this time I simply can't afford to support the depth of discount [REDACTED] margin expectations, basically maintaining margin % rate on highly promoted Pizza category. Most importantly for the Schwan's/Pazo Global organizations, is your cost of goods will be sharper than any customer within the U.S. portfolio including Walmart. Add in the incremental supply chain costs or importing from the US [REDACTED]-[REDACTED] + promotional activity the launch of Red Baron and presence within Canada will be at serious risk.

The level of investment to support a very aggressive SRP [REDACTED] and margin [REDACTED] is us pushing all-in to secure the Walmart Canada business.

We want your partnership-but the economics based on your request below is not sustainable. However-you have my full commitment to work through a FY25 JBP that works for our mutual organizations. In addition-the Red Baron innovation pipeline we are adding will only accelerate and business results!

I'm open to discussing today over Zoom or just call me 905-460-4534.

Be nice to have closure on this today.

Regards,
Gary

From: Nicola Wepener <Nicola.Wepener@walmart.com>
Sent: Friday, May 19, 2023 3:46 PM
To: Gary Taylor <Gary.Taylor@Pazoglobal.com>
Subject: RE: Red Baron promotional plan FY24/FY25
Importance: High

Hi Gary,

The unit cost with ecom is the invoice cost we will work with as the products will be on E-comm, and that funding is deducted in the background its not something we discuss separately.

The Invoice cost for the programs looks ok for now (Large Pizzas [REDACTED]/unit, Singles [REDACTED]) but the Funding piece is far off and I will not be able to promote the product with this funding.

The Funding as % of sales \$ is only [REDACTED], I require the following to make it work (weeks is based on annual plan, for this fiscal of YTG as we will only launch with 6 months remaining of the fiscal, we can pro rata the activity to half the below number of weeks)

- **Large Pizzas**
 - o ROLL BACK = [REDACTED]/unit 20 weeks
 - o SAVE NOW = [REDACTED]/unit 4 weeks
- **Singles**
 - o ROLL BACK = [REDACTED]/unit 20 weeks

Please advise soonest so we can close the negotiation and start item creation.

Nicola Wepener
Senior Category Manager – Frozen Grocery
Email Nicola.Wepener@walmart.com

From: Gary Taylor <Gary.Taylor@Pazoglobal.com>
Sent: Monday, May 15, 2023 3:08 PM
To: Nicola Wepener <Nicola.Wepener@walmart.com>
Subject: EXT: RE: Red Baron promotional plan FY24/FY25

EXTERNAL: Report suspicious emails to **Email Abuse**.

Hi Nicola-

My mistake-the E-Comm column was hidden from view in the previous attachment. Revised shared below.

1. **Classic and Thin Crust**
Cost Structure VNPk Unit Cost [REDACTED]/unit
E-comm [REDACTED] or [REDACTED]/unit
VNPk Unit Cost w/E-Comm=[REDACTED]
Deep Dish Singles
Cost Structure VNPk Unit Cost [REDACTED]/unit
E-comm [REDACTED] or [REDACTED]/unit
VNPk Unit Cost w/E-Comm=[REDACTED]

Please note-for context the pricing I'm presenting is equal to U.S. EDLC and that does not include supply chain costs to bring to Canada and they do not promote the business. In summary-I'm pushing all-in with you to support the plan below.

2. Promotional funding-current building blocks is structured 20wks [REDACTED] and 4wks deeper discount [REDACTED]. For planning purposes full fiscal is 24 weeks promoted. Until we fully understand velocities base/promoted, I can't deviate from the plan balance of fiscal year (12 weeks promo) but you and I can review FY25 when have some solid history. The 'unknown' is where I'm challenged. For the balance of FY24-I'm proposing 12 weeks Save Now's and look at SRP's. End of the day-drive sales and gross margin \$'s profitably.

3. Based on current inbound inventory from the U.S. case pack size is 16-Classic Crust and 12 Deep Dish Singles. Based on your feedback-we are looking at reducing Classic/Thin to a 12ct and the idea was shared within Senior Leadership (CEO) of the Schwan's organization. Based on current shelve schematics-1 case of Classic Crust meets 1 ¼ to 1 ½ case pack out rule or 24 units holding power.
- Classic and Thin Crust- Length 1.1" Width 12" Height 12"
 - Deep Dish Singles- Length 2.5" Width 5.75" Height 6"

WALMART PRICE LIST FY24

Segment	Pack / Size			List Price	Base Program							
					Off Invoice	VNPK Cost	Net Unit Cost	e-Comm	Net Cost with O&A	Net Unit Cost with O&A	SRP	Gross
Red Baron Classic	16	X	583G									
Red Baron Thin & Crispy	16	X	583G									
Red Baron Deep Dish Singles	12	X	317G									

I'm available any time this week if you want to connect and discuss in greater detail.

Regards,

Gary Taylor

Pazo Global – V.P Sales

Phone: 905-460-4534

Website: www.pazoglobal.com

"Your Strategic Global Partner"

From: Nicola Wepener <Nicola.Wepener@walmart.com>

Sent: Friday, May 12, 2023 4:03 PM

To: Gary Taylor <Gary.Taylor@Pazoglobal.com>

Subject: RE: Red Baron promotional plan FY24/FY25

Hi Gary

Thanks, just want to a few things before I analyse the offer

- 1.) The BDF value per unit doesn't seem to tie back when I do the math
 - a. Classic unit cost proposal is [REDACTED]
 - b. Promo BDF level1 proposal is [REDACTED]/cs (case = 16) ,so single unit bdf = [REDACTED].
 - c. However when I take the [REDACTED] cost and subtract the [REDACTED] BDF = [REDACTED], but your table shows promo cost to be [REDACTED].
 - d. Please clarify that the proposal is supposed to be promo cost of [REDACTED] as per the table, based on the funding of [REDACTED] / unit?

- 2.) Promo level 2 has more aggressive funding than promo level 1, so promo level 2 would be more like a SAVE NOW, and the less aggressive funding promo 1 would be the RB. Should the event types be switched around?
To be 4 weeks of SAVE NOW, and 20 weeks of RB
- 3.) The Case packs
 - a. Currently you shared 16 and 12 as the case packs for Red Baron
 - b. We DO NOT want to go higher to 24 per pack (if I am understanding you currently below?)
 - c. We need to drop the case packs to approximately 8 or 9 for the large pizzas, ad 8 units per pack for the singles
 - i. Please share the item unit dimensions for each program so that I can have the category advisor check the fit for our WM Canada mods

Nicola Wepener

Senior Category Manager – Frozen Grocery

Email Nicola.Wepener@walmart.com

From: Gary Taylor <Gary.Taylor@Pazoglobal.com>
Sent: Friday, May 12, 2023 12:01 PM
To: Nicola Wepener <Nicola.Wepener@walmart.com>
Subject: EXT: RE: Red Baron promotional plan FY24/FY25

EXTERNAL: Report suspicious emails to **Email Abuse**.

Hi Nicola-hope you are well.

Behind the scenes-I'm working on a cost/retail model to work for your business moving forward. Please note-current Walmart U.S. Red Baron retail is [REDACTED] add in currency FX lands at [REDACTED] + supply chain costs to import . In summary-I'm pushing all-in to support your cost and retail program. Second-massive risk for me to trade Walmart Canada below Walmart U.S. economics in support of the launch. Business here in Canada will be over before it starts.

In follow up to your request-please note the following:

- I enhanced your VNPk cost very close to your request
 - Proposal-Classic Crust and Thin Crust you want [REDACTED] I can deliver [REDACTED] VNPk Cost
 - Aligned-Deep Dish Singles [REDACTED] VNPk Cost
- Promoted margins enhanced to [REDACTED] across both Promo level #1 and #2
- Frequency based on launch strategy-maintain current Promo Level #1 (20) Promo Level #2 (4) want to promote EDLP strategy focused on driving your gross margin \$ and initial margin%
 - I will provide Walmart Canada with [REDACTED] margin-frequencies across Level #1 and Level #2 will be part of business planning process to drive mutual success. Summary to follow-
 - Pazo Global is fully committed to working with Walmart Canada to accelerate the launch and success of the Red Baron brand 2023-2024
- Current case pack size is under review for Canada to address Walmart concerns
 - The Red Baron business actively working on the reduction of case pack size for Canada-already in workstream for 2024
 - Based on Walmart current shelving schematics 18.1 inch depth 1 case of Red Baron will hold 24 units single facing
- 2023-2024 innovation pipeline is very robust-we are working on Rising Crust offering for launch calendar Q3-Q4

WALMART PRICE LIST I

Segment	Pack / Size			List Price	Base Program					Promo I	
					Off Invoice	VNPK Cost	Net Unit Cost	SRP	Gross Margin		
Red Baron Classic	16	X	583G	\$104.61	27.50%	\$28.77	\$75.84	\$4.74	\$6.97	33%	\$2
Red Baron Thin & Crispy	16	X	583G	\$104.61	27.50%	\$28.77	\$75.84	\$4.74	\$6.97	33%	\$2
Red Baron Deep Dish Singles	12	X	317G	\$57.00	16.50%	\$9.41	\$47.60	\$3.97	\$5.97	34%	\$2



Have a good weekend.

Gary Taylor

Pazo Global – V.P Sales

Phone: 905-460-4534

Website: www.pazoglobal.com

“Your Strategic Global Partner”

From: Nicola Wepener <Nicola.Wepener@walmart.com>

Sent: Friday, May 5, 2023 4:24 PM

To: Gary Taylor <Gary.Taylor@Pazoglobal.com>

Subject: RE: Red Baron promotional plan FY24/FY25

Hi Gary,

Yes a few points

- On both everyday and promo the proposal does not meet the required overall margin.
 - o Require everyday cost needs to be at [REDACTED] for the Classic and TC, [REDACTED] for the Singles
 - o Promo weeks I would need 18 weeks in total for each program, and improved funding for each of the Save now's or RB's
- Case Packs are also a HUGE problem, we just will not be able to accommodate this on shelf with the excessive Case packs
 - o Pizzas need to be at 8
 - o Singles need to be at 6

Nicola Wepener

Senior Category Manager – Frozen Grocery

Email Nicola.Wepener@walmart.com

From: Gary Taylor <Gary.Taylor@Pazoglobal.com>
Sent: Friday, May 5, 2023 2:28 PM
To: Nicola Wepener <Nicola.Wepener@walmart.com>
Subject: EXT: FW: Red Baron promotional plan FY24/FY25

EXTERNAL: Report suspicious emails to **Email Abuse**.

Happy Friday!

Just checking in before end of day week-you have everything you need on the Red Baron business?

Feel free to flip me a Zoom meeting for next week to circle back and discuss next steps.

Have a good weekend.

From: Nicola Wepener <Nicola.Wepener@walmart.com>
Sent: Tuesday, May 2, 2023 9:08 PM
To: Gary Taylor <Gary.Taylor@Pazoglobal.com>
Subject: RE: Red Baron promotional plan FY24/FY25

Hi Gary,

Thanks for sending through, please can you send the costing tables in excel so its easier for me to review/

Have you already sent samples to our head office?

Nicola Wepener

Senior Category Manager – Frozen Grocery

Email Nicola.Wepener@walmart.com

From: Gary Taylor <Gary.Taylor@Pazoglobal.com>
Sent: Tuesday, May 2, 2023 9:03 PM

To: Nicola Wepener <Nicola.Wepener@walmart.com>

Subject: EXT: Red Baron promotional plan FY24/FY25

EXTERNAL: Report suspicious emails to **Email Abuse**.

Hi Nicola-hope you are well.

In follow up to our meeting-please see attached Red Baron FY24/25 proposed base cost and promotional plan.

Feel free to reach out this week to discuss in greater detail.

Regards,

Gary Taylor

Pazo Global – V.P Sales

Phone: 905-460-4534

Website: www.pazoglobal.com

“Your Strategic Global Partner”

From: Nicola Wepener <Nicola.Wepener@walmart.com>

Sent: Monday, May 1, 2023 10:44 AM

To: Gary Taylor <Gary.Taylor@Pazoglobal.com>

Subject: RE: EXT: Timing of sample delivery

Hi Gary,

Please email me the promo detail and then we can set up some time to discuss in the next few days

Nicola Wepener

Senior Category Manager – Frozen Grocery

Email Nicola.Wepener@walmart.com

EXHIBIT "B"

McIntyre, Caitlin

From: Nicola Wepener <Nicola.Wepener@walmart.com>
Sent: Tuesday, November 21, 2023 4:05 PM
To: Pazo Global LLC - Gary Taylor
Subject: Red Baron Costing discrepancy
Attachments: EXT: RE: Red Baron promotional plan FY24/FY25; EXT: RE: Red Baron Item Creation; Cost Change Form - Jan V1.xlsx

Importance: High

Hi Gary,

When I reviewed the Red Baron Financials today I was extremely concerned about the incorrect Cost I saw in the system.

You and I had aligned on the following cost on May 26th (see attached), and as per our call just now we are on the same page.

- Large (Classic and Thin) Pizza's = [REDACTED]
- Single (Deep Dish) Pizza's = [REDACTED]

Costing in system is as follows:

Item Nbr	Item Desc 1	Supplier Pack Cost	Supplier Pack Qty	unit cost
50283962	RB CLASSIC PEPPERONI	[REDACTED]	16	[REDACTED]
50283963	RB CLASSIC 4 CHEESE	[REDACTED]	16	[REDACTED]
50283964	RB THIN PEPPERONI	[REDACTED]	16	[REDACTED]
50283965	RB THIN 5 CHEESE	[REDACTED]	16	[REDACTED]
50283966	RB DEEP DISH PEP	[REDACTED]	12	[REDACTED]
50283967	RB DEEP DISH CHEESE	[REDACTED]	12	[REDACTED]

Mary from BRR Logistics submitted this costing in the NIC form when the Item 360 was not working. (see email attached)

- I should have seen this and corrected it but with the rush to create items, I didn't catch this.
- Other stakeholders including BRRR and Pazo Global should have caught this too.

HOWEVER NOW

- Costing must be updated to the costing that was agreed – please have BRR fill out the attached Cost Change Form to the agreed costing ASAP.
- The difference of what is owed to Walmart needs to be billed in a COOP for November (COOPS due Monday 27 November). Currently the entire program is tracking at [REDACTED] margin, which is unsustainable.

I have turned off the Deep Dish items replenishment, the Classic and Thin we have on promo wk45-46 (next week) so I cannot turn them off as its in flyer.

Please help to get this resolved ASAP, it is a HUGE issue in the financials which I have to resolve.

Thanks .

Nicola Wepener

Senior Category Manager – Frozen Grocery

Walmart Canada

Mobile 289-952-7141

Email Nicola.Wepener@walmart.com

1940 Argentia Road, Mississauga, ON L5N 1P9

EXHIBIT "C"

McIntyre, Caitlin

From: Michael Ditkofsky <Michael.Ditkofsky@walmart.com>
Sent: Thursday, March 14, 2024 10:27 AM
To: McIntyre, Caitlin
Subject: FW: Red Baron Costing discrepancy
Attachments: Walmart Cost Change Form - Jan V1 Red baron 11.22.23.xlsx

From: Gary Taylor <Gary.Taylor@Pazoglobal.com>
Sent: Wednesday, November 22, 2023 8:07 PM
To: Nicola Wepener <Nicola.Wepener@walmart.com>
Cc: BRR LOGISTICS LIMITED - Mary McLaughlin <mmclaughlin@brrlogistics.ca>
Subject: EXT: FW: Red Baron Costing discrepancy

EXTERNAL: Report suspicious emails to **Email Abuse**.

Hi Nicola-see attached Red Baron cost change form.

Our apologies.

From: Mary McLaughlin <mmclaughlin@brrlogistics.ca>
Sent: Wednesday, November 22, 2023 4:00 PM
To: Gary Taylor <Gary.Taylor@Pazoglobal.com>
Subject: RE: Red Baron Costing discrepancy

Hi Gary, Please see attached.
I will update our system costing to Walmart immediately.

From: Nicola Wepener <Nicola.Wepener@walmart.com>
Sent: Tuesday, November 21, 2023 4:05 PM
To: Gary Taylor <Gary.Taylor@Pazoglobal.com>
Subject: Red Baron Costing discrepancy
Importance: High

Hi Gary,

When I reviewed the Red Baron Financials today I was extremely concerned about the incorrect Cost I saw in the system.

You and I had aligned on the following cost on May 26th (see attached), and as per our call just now we are on the same page.

- Large (Classic and Thin) Pizza's = [REDACTED]
- Single (Deep Dish) Pizza's = [REDACTED]

Costing in system is as follows:

Item Nbr	Item Desc 1	Supplier Pack Cost	Supplier Pack Qty	unit cost
50283962	RB CLASSIC PEPPERONI	█	16	█
50283963	RB CLASSIC 4 CHEESE	█	16	█
50283964	RB THIN PEPPERONI	█	16	█
50283965	RB THIN 5 CHEESE	█	16	█
50283966	RB DEEP DISH PEP	█	12	█
50283967	RB DEEP DISH CHEESE	█	12	█

Mary from BRR Logistics submitted this costing in the NIC form when the Item 360 was not working. (see email attached)

- I should have seen this and corrected it but with the rush to create items, I didn't catch this.
- Other stakeholders including BRRR and Pazo Global should have caught this too.

HOWEVER NOW

- Costing must be updated to the costing that was agreed – please have BRR fill out the attached Cost Change Form to the agreed costing ASAP.
- The difference of what is owed to Walmart needs to be billed in a COOP for November (COOPS due Monday 27 November). Currently the entire program is tracking at █ margin, which is unsustainable.

I have turned off the Deep Dish items replenishment, the Classic and Thin we have on promo wk45-46 (next week) so I cannot turn them off as its in flyer.

Please help to get this resolved ASAP, it is a HUGE issue in the financials which I have to resolve.

Thanks .

Nicola Wepener

Senior Category Manager – Frozen Grocery

Walmart Canada

Mobile 289-952-7141

Email Nicola.Wepener@walmart.com

1940 Argentia Road, Mississauga, ON L5N 1P9

APPENDIX “B”



Legal Department

Michael Ditkofsky
Corporate Counsel
Email: Michael.Ditkofsky@walmart.com

1940 Argentia Road
Mississauga, Ontario
L5N 1P9
(437) 688-8401

VIA E-MAIL: mwakefield@brrlogistics.ca

January 31, 2024

Michael Wakefield
President and CEO
BRR Logistics Limited
11 – 55 Fleming Road
Cambridge, Ontario
N1T 2A9

Dear Mr. Wakefield:

Re: Reimbursement for overpayments made by Wal-Mart Canada Corp. (“Walmart”)

I am writing with respect to the outstanding amount of **\$489,193.26** owing to Walmart as a result of overpayments made by Walmart to BRR Logistics Limited (“BRR”) during the period of July 2, 2023 to November 21, 2023 in regards to the purchase of certain food items.

Pursuant to the Supplier Agreement between Walmart and BRR effective February 2, 2018, BRR is responsible for verifying the accuracy of costs, discounts, allowances and all other terms of sale between the parties. An action plan to remedy any erroneous payments was to be entered into within 48 hours of their discovery. Despite several attempts made by representatives of Walmart, BRR has failed to agree to a resolution plan.

Accordingly, please confirm by no later than February 7, 2024 that BRR will reimburse Walmart for the full amount noted above. If we do not hear from you by that date, we will have no choice but to consider initiating court proceedings to pursue Walmart’s available remedies.

I look forward to hearing from you.

Sincerely,

WAL-MART CANADA CORP.



Michael Ditkofsky
Corporate Counsel
MD/jp

APPENDIX “C”



MILLER THOMSON
AVOCATS | LAWYERS

MILLER THOMSON LLP
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CANADA

T 416.595.8500
F 416.595.8695

MILLERTHOMSON.COM

February 12, 2024

Private and Confidential

**Sent via E-mail –
michael.ditkofsky@walmart.com**

Gregory Azeff
Direct Line: 416.595.2660
gazeff@millerthomson.com

File No. 0282719.0001

Wal-Mart Canada Corp.
1940 Argentia Road
Mississauga, Ontario
L5N 1P9

Attention: Michael Ditkofsky

Dear Mr. Ditkofsky:

Re: Amounts owing by Wal-Mart Canada Corp. to BRR Logistics Limited

We are the solicitors for BRR Logistics Limited (the “**Company**”), which filed a Notice of Intention to make a Proposal pursuant Subsection 50.4(6) the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) on January 31, 2024. We refer to your letter to the Company dated January 31, 2024.

It is our understanding that Wal-Mart Canada Corp. (“**Walmart**”) owes the amount of \$1,797,142.65 (the “**Account**”) to the Company as at the date hereof, plus accrued interest. However, we understand that Walmart is improperly refusing to pay the Account, on the basis of Walmart’s claim that an amount of \$489,193.26 is owing by the Company to Walmart due to an alleged overpayment.

First, there was no overpayment and as such no amount is owing by the Company to Walmart. Rather, Walmart’s claim is premised on its attempt to unilaterally and retroactively impose a discount on the Account. The Company has not agreed to this discount and requires that Walmart immediately pay the Account in accordance with the Supplier Agreement.

Second, Walmart’s actions in refusing to pay the Account in response to this dispute are in clear violation of the stay of proceedings under Section 69 of the BIA, which prohibits creditors and other third parties from, among other things, exercising any remedies against the Company during the BIA proposal proceeding.

Please be advised that in the event that Walmart does not pay the Account within 7 days of the date hereof, we intend to immediately bring this matter to the attention of the Ontario Superior Court of Justice (the “**Court**”) and seek appropriate relief against Walmart in connection with, among other things, Walmart’s intentional and continuing violation of the stay of proceedings.

Please note that we have copied the BIA proposal trustee, BDO Canada Limited (the “**Trustee**”) and its counsel, Aird & Berlis LLP. We understand that the Trustee supports the

Company's position and intended course of action with respect to Walmart's ongoing breach of the stay of proceedings and refusal to pay the Account (which we note is causing ongoing harm to the Company and its restructuring efforts).

Thank you for your prompt attention to this matter. Please do not hesitate to contact the undersigned with any questions or comments.

Yours truly,

MILLER THOMSON LLP

Per:

A handwritten signature in blue ink, appearing to read 'Gregory Azeff', with a stylized flourish at the end.

Gregory Azeff
Partner
GAZ/sg



APPENDIX “D”

Thompson, Nancy

From: McIntyre, Caitlin
Sent: Friday, February 23, 2024 8:05 PM
To: Faheim, Monica; Azeff, Gregory
Cc: Rogers, Linc
Subject: RE: In the Matter of BRR Logistics Limited (Court File No. 31-3038619)

Hi Monica,

Thank you for confirming that you will stand down on the request.

The record provided does not contain sufficient details regarding the alleged receivable. Please provide any documentation supporting the alleged receivable, including but not limited to any invoices or purchase orders that specifically describe what the receivable relates to. It would also be helpful to see any correspondence that supports the Company's version of events set out at paragraph 24 of the Affidavit of Michael Wakefield sworn February 23, 2024.

Thank you,
Caitlin

Caitlin McIntyre (she, her, hers)

Associate

caitlin.mcintyre@blakes.com

T. +1-416-863-4174

C. +1-905-746-6711

From: Faheim, Monica <mfaheim@millerthomson.com>
Sent: Friday, February 23, 2024 7:43 PM
To: McIntyre, Caitlin <caitlin.mcintyre@blakes.com>; Azeff, Gregory <gazeff@millerthomson.com>
Cc: Rogers, Linc <linc.rogers@blakes.com>
Subject: RE: In the Matter of BRR Logistics Limited (Court File No. 31-3038619)

• External Email | Courrier électronique externe •

Hi Caitlin

I confirm that we are prepared to advise Justice Conway on Tuesday that Blakes has just been retained, and given that instructing counsel is away, we will stand down the request to fix a date for the scheduling of a motion on the issue.

Our hope is that the issues involving Walmart and the company can be resolved among counsel without any need for Court involvement. I believe the record provides sufficient particulars in respect of the outstanding receivable but please do let me know if you still require further documentation. We want to emphasize that this is a very critical situation for the company and its cash flow situation, and while we understand you require time to get up to speed and obtain instructions, there is time sensitivity to the matter and we trust that the parties can work together to get it resolved as quickly as possible.

Please let me know if you would like to discuss this matter further in advance of Tuesday's hearing.

Thank you and have a great weekend,

Monica

MONICA FAHEIM
Associate

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, Ontario | M5H 3S1
T +1 416.597.6087
mfaheim@millerthomson.com



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From: McIntyre, Caitlin <caitlin.mcintyre@blakes.com>
Sent: Friday, February 23, 2024 6:16 PM
To: Azeff, Gregory <gazeff@millerthomson.com>
Cc: Faheim, Monica <mfaheim@millerthomson.com>; Rogers, Linc <linc.rogers@blakes.com>
Subject: [**EXT**] FW: In the Matter of BRR Logistics Limited (Court File No. 31-3038619)

Greg,

We have reviewed the attached motion record and see that you have sought to fix a date on which the Company and Walmart will be required to attend before the Court for advice and directions. We understood from your previous email that you would no longer be seeking this relief on Tuesday, given our retention. Can you please confirm that you will not be seeking this relief on Tuesday?

Thank you,
Caitlin

Caitlin McIntyre (she, her, hers)
Associate
caitlin.mcintyre@blakes.com
T. +1-416-863-4174
C. +1-905-746-6711

Blake, Cassels & Graydon LLP
199 Bay Street, Suite 4000, Toronto ON M5L 1A9 ([Map](#))
blakes.com | [LinkedIn](#)



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From: Garrafa, Shallon <sgarrafa@millერთhompson.com>

Sent: Friday, February 23, 2024 5:46 PM

To: iaversa@airdberlis.com; mlici@airdberlis.com; bwarga@bdo.ca; jfritz@bdo.ca; michael.ditkofsky@walmart.com; 462contact@uniforlocal414.ca; mark@s2d.com; Avasan@onelineage.com; jpugliese@Skylinegrp.ca; mwakefield@brrlogistics.ca; AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca; insolvency.unit@ontario.ca; OSB-Registry-Registre-BSF-OSB-BSF@ic.gc.ca; Julie.l.matte@servicecanada.gc.ca; Rogers, Linc <linc.rogers@blakes.com>; McIntyre, Caitlin <caitlin.mcintyre@blakes.com>; ehart@sallyportcf.com; marie.salama@bdc.ca

Cc: Azeff, Gregory <gazeff@millერთhompson.com>; Faheim, Monica <mfaheim@millერთhompson.com>

Subject: In the Matter of BRR Logistics Limited (Court File No. 31-3038619)

• External Email | Courrier électronique externe •

Dear Service List:

In advance of the motion scheduled for Tuesday, February 27 at 10:30 a.m. before Justice Conway, please find attached the **Motion Record of BRR Logistics Limited**, hereby served on you pursuant to the *Rules of Civil Procedure*. The attached will be uploaded to caselines shortly.

The zoom link for the hearing is provided below:

<https://ca01web.zoom.us/j/61474879934?pwd=NDQvb3ZKRkN0b3hpTWNPU1RaaWt0QT09#success>

Meeting ID: 614 7487 9934 Passcode: 796227

Further, if you wish to attend the hearing, kindly advise the undersigned so that we may prepare a participant sheet.

Thank you,
Shallon

SHALLON GARRAFA

Legal Assistant

MILLER THOMSON LLP

Services provided through Miltom Management LP

Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
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sgarrafa@millერთhompson.com



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APPENDIX “E”

Thompson, Nancy

From: McIntyre, Caitlin
Sent: Tuesday, March 19, 2024 5:44 PM
To: Faheim, Monica
Cc: gazeff@millerthomson.com; Rogers, Linc
Subject: BRR and Walmart

Monica,

As noted in our letter, Walmart is in the process of reviewing and confirming the correct amount of the receivable on the basis of the invoices you provided on February 26th and Walmart's own records. Given the number of invoices, this is a time-consuming exercise which remains ongoing. At this time, however, Walmart has confirmed, based on the information available to it, that Walmart owes BRR at least \$425,000. Walmart is prepared to release \$425,000 for payment to BRR in the interest of furthering negotiations. If the parties determine that more than \$425,000 is owing by Walmart, Walmart will, of course, pay the difference to BRR. The remainder of the alleged Receivable remains in dispute. If consensual resolution cannot be reached then an adjudication may be required.

With respect to the Overpayment, the emails we provided are with Pazo Global, who acted as a broker and agent for BRR in the negotiations between BRR and Walmart. Walmart understands that Pazo Global is an authorized "representative of the company" and Walmart had direct discussions with the company. You have provided no evidence contradicting Walmart's version of events, or supporting that the events in November 2023 were in the nature of a "retroactive discount", despite this evidence having been requested. We reiterate our request for supporting evidence on this point.

We reiterate that litigating this claim in the absence of a meaningful settlement dialogue, including evidence being provided by both parties to support their assertions, is not economical from Walmart's perspective.

Regards,
Caitlin

Caitlin McIntyre (she, her, hers)
Associate
caitlin.mcintyre@blakes.com
T. +1-416-863-4174
C. +1-905-746-6711

District of: Ontario
Division No.: 09-Toronto
Court No.: BK-24-03038619-0031
Estate No.: 31-3038619

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
BRR LOGISTICS LIMITED

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

Proceeding Commenced at Toronto

**CASE CONFERENCE BRIEF OF
WAL-MART CANADA CORP.
(Returnable March 20, 2024)**

BLAKE, CASSELS & GRAYDON LLP
Barristers and Solicitors
199 Bay Street
Suite 4000, Commerce Court West
Toronto, Ontario M5L 1A9

Linc Rogers, LSO #43562N
Tel: 416-863-4168
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Lawyers for Wal-Mart Canada Corp.