



ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL SLIP/ENDORSEMENT**

COURT FILE NO.: BK-25-03213105-0032 DATE: May 02, 2025

NO. ON LIST: 3

TITLE OF PROCEEDING: INDEED LABORATORIES INC v BDO CANADA  
LIMITED

BEFORE JUSTICE: Steele

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party, Crown:**

Name of Person Appearing	Name of Party	Contact Info
Laura Culleton	Debtor –	laurac@chaitons.com
Harvey Chaiton	Indeed Laboratories Inc	harvey@chaitons.com

**For Defendant, Respondent, Responding Party, Defence:**

Name of Person Appearing	Name of Party	Contact Info
Peter Naumis	Proposal Trustee - BDO Canada Limited	pnaumis@bdo.ca

**For Other, Self-Represented:**

Name of Person Appearing	Name of Party	Contact Info


**ENDORSEMENT OF JUSTICE STEELE:**

1. Indeed Laboratories Inc. (“Indeed Labs” or the “Company”) seeks: (a) an Ancillary Order approving activities and conduct of the Proposal Trustee as set out in the First and Second Reports, authorizing an increase in borrowing to a maximum of \$500,000, granting a first ranking Administration Charge, and granting an extension of time to file its proposal to July 1, 2025; and (b) a Sales Process Order approving the Sale Process, and approving and authorizing Indeed to enter into the Stalking Horse Agreement.
2. No one opposes the relief sought.
3. Capitalized terms used in this endorsement not defined herein have the meaning set out in Indeed Lab’s factum.

**Background**

4. Indeed Labs is a distributor of skincare products. The Company’s main customers are Shoppers Drug Mart, Loblaws, Ulta, Amazon US and Amazon UK.
5. Indeed Labs employs about 17 people.
6. The Company is indebted to 370 Ontario in the amount of approximately \$8.6 million. It is also indebted to Cosmetic Synergies Incorporated in the principal amount of \$1 million.
7. On April 17, 2025 the Company filed a NOI under the *Bankruptcy and Insolvency Act* (the “BIA”).
8. BDO Canada Limited is the Proposal Trustee in the NOI Proceeding.
9. On April 24, 2025, the Court granted an order authorizing the Company to enter into an interim financing term sheet with 370 Ontario to obtain interim financing of up to \$500,000 and grant a second ranking priority charge. At that time, interim advances under the Term Sheet of up to \$75,000 were authorized.
10. The Company now requires the ability to draw additional advances from the DIP Loan to continue its operations.

**Analysis**

*Should the Court authorize the Sale Process and Stalking Horse Agreement?*

11. The court, in *Danier Leather Inc. (Re)*, 2016 ONSC 1044, at para. 20 recognized that stalking horse agreements are common in insolvency proceedings. Among other things, stalking horse agreements facilitate sales by establishing a baseline price and transactional structure to assess and optimize superior bids from interested parties.
12. In determining whether to approve a stalking horse agreement, courts have considered whether the proposed stalking horse bid encourages the sale process without negatively impacting its efficiency and expediency: *CCM Master Qualified Fund v. blutip Power Technologies*, 2012 ONSC 1750, at paras. 7-8.
13. For the reasons set out at para. 26 of the Company's factum, I am satisfied that the Stalking Horse Agreement should be approved.
14. For the reasons set out at para. 30 of the Company's factum, I am satisfied that the Sale Process should be approved.

*Should the Court approve the requested interim financing?*

15. As noted above, the DIP loan in the amount of \$500,000 was approved at the prior attendance. However, only \$75,000 in draws were approved.
16. The Company now asks for approval to draw upon the full amount of the DIP Loan because the Company requires the funding to make its payroll and other ongoing expenses. The Company will be forced to cease operations if it does not receive interim funding.
17. I am satisfied that the financing should be approved.

*Should the Administration Charge be approved?*

18. The Company seeks an Administration Charge of up to \$250,000 to secure the fees and disbursements of the Proposal Trustee, its counsel and the Company's counsel.
19. S. 64.2(1) of the BIA provides that a court may grant a charge in favour of the Proposal Trustee and other professionals in respect of their fees and expenses to be incurred during NOI proceedings. S. 64.2(2) of the BIA permits the court to order the administration charge to rank in priority over the claim of any secured creditor.
20. In *Canwest Publishing Inc. (Re)*, 2010 ONSC 222, at para. 54, the Court set out the factors it considered when addressing the analogous section of the CCAA.
21. For the reasons set out at para. 37 of the Company's factum, I am satisfied that the Administration Charge should be granted.

*Should the Court approve the extension of time?*

22. The stay of proceedings is set to expire on May 17, 2025. The Company seeks an extension to July 1, 2025.

23. s. 50.4(9) of the BIA, the Court may grant an extension or further extension of up to 45 days for any individual extension or five months in the aggregate following the expiry of the original 30 day period. Section 50.4(9) requires the court to consider three factors:
- a. Whether the debtor has acted in good faith and with due diligence;
  - b. Whether the debtor would likely be able to make a viable proposal if the extension being applied for were granted; and
  - c. Whether any creditor will be materially prejudiced by the extension.
24. The Company states that each of the factors have been satisfied: The Company has acted and is acting in good faith and with due diligence. The Company will likely be able to make a viable proposal to its creditors if the extension is granted. There is no known prejudice that will be suffered by any creditor as a result of the proposed extension.
25. The Proposal Trustee and the DIP lender support the extension. The Company is expected to have sufficient cash to continue operating until the end of July (taking into account the DIP Loan).
26. Orders attached.



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Justice Steele

Date: May 2, 2025