Court File No. CV-25-00743485-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

ARBAT CAPITAL GROUP LTD.

Applicant

and

THE SECOND CUP COFFEE COMPANY INC.

Respondent

FACTUM OF THE APPLICANT
(Returnable February 25, 2026)

February 23, 2026

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 6600
Toronto, ON Canada M5H 3S1

Gavin H. Finlayson LSO# 44126D
Email: gfinlayson@millerthomson.com
Tel: 416.595.8619

Larry Ellis LSO# 49313K
Email: lellis@millerthomson.com
Tel: 416.595.8639

Matthew Cressatti LSO# 77944T
Email: mcressatti@millerthomson.com
Tel: 416-597-4311

Lawyers for the Applicant

TO: **THE SERVICE LIST**

Court File No. CV-25-00743485-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

ARBAT CAPITAL GROUP LTD.

Applicant

and

THE SECOND CUP COFFEE COMPANY INC.

Respondent

FACTUM OF THE APPLICANT
(Returnable February 25, 2026)

TABLE OF CONTENTS

PART I - INTRODUCTION 1
PART II - SUMMARY OF FACTS 1
PART III - ISSUES 2
PART IV - LAW AND ARGUMENT 3
The Stay Period Should be Extended 3
PART V - ORDER REQUESTED 5

Court File No. CV-25-00743485-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

ARBAT CAPITAL GROUP LTD.

Applicant

and

THE SECOND CUP COFFEE COMPANY INC.

Respondent

APPLICANT'S FACTUM

PART I - INTRODUCTION

1. This Factum is filed by the Applicant, Arbat Capital Group Ltd. ("**Arbat**"), the largest creditor and a 40% shareholder of the Respondent, The Second Cup Coffee Company Inc. ("**Second Cup**" or the "**Company**"), in support of its Motion for an order (the "**Stay Extension Order**") that, *inter alia*, extends the Stay Period, as defined below, to March 31, 2026.

PART II - SUMMARY OF FACTS

2. The complete set of facts in support of this Motion are set out in the Affidavit of Alexey Golubovich, affirmed on February 20, 2026 (the "**Fifth Golubovich Affidavit**") and the fifth report of Grant Thornton Limited, dated February 23, 2026 (the "**Fifth Report**"), written in its capacity as court-appointed Monitor of the Company (in such capacity, the "**Monitor**"). Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Fifth Golubovich Affidavit.

3. Pursuant to an order of Justice Kimmel made on January 29, 2026, the current stay of proceedings in this case expires on February 27, 2026 (the "**Stay Period**").

4. As detailed in the Fifth Golubovich Affidavit and the Fifth Report, the Applicant has entered into a binding agreement to acquire the Company's shares by way of a reverse-vesting transaction that was approved by an order of Justice Myers granted on October 30, 2025 (the "**Transaction**").[1] A portion of the consideration for the Transaction is a cash closing payment (the "**Closing Payment**").[2]

5. As further detailed in the Fifth Golubovich Affidavit and the Fifth Report, a portion of the cash purchase price for the Transaction has been received by counsel for the Applicant and by the Monitor.[3] However, due to unforeseen difficulties, a portion of the cash purchase price was not received by the beginning of the week of February 23.[4] As a result, and out of an abundance of caution, the Applicant has sought this extension to the Stay Period to ensure that there is sufficient time to close the Transaction.

PART III - ISSUES

6. The sole issue before the Court on this Motion is whether the Court should extend the Stay Period up to and including March 31, 2026.

---

[1] See paragraphs 9 through 16 of the Fifth Golubovich Affidavit.
[2] Fifth Golubovich Affidavit at para 16(d).
[3] Fifth Report at para 27.
[4] Fifth Report at para 30.

PART IV - LAW AND ARGUMENT

The Stay Period Should be Extended

7. The Stay Period currently expires on February 27, 2026. The Applicant seeks to extend the Stay Period up to and including March 31, 2026. The Applicant submits that the test to extend the Stay Period is satisfied. The Monitor is supportive of this extension to the Stay Period.

8. Pursuant to section 11.02(2) of the CCAA, this Court is empowered to extend the stay of proceedings granted to a debtor company.[5] The Court must consider whether: (a) the order sought is appropriate in the circumstances; and (b) the applicant has been acting in good faith and with due diligence.[6]

9. The requested extension is reasonable and is intended to provide the Monitor and its legal counsel with the time necessary to close the Transaction.

10. As detailed in the Fifth Golubovich Affidavit and the Fifth Report, the extended Stay Period is necessary for the Transaction to close.

11. The Applicant is continuing to work diligently with the Monitor towards an anticipated closing of the Transaction prior to February 27, 2026. However, as detailed in paragraph 24 of the Fifth Golubovich Affidavit, the Applicant has faced difficulties in transferring a

---

[5] s 11.02(2)-(3), CCAA; *Aleafia Health Inc. et al.*, (March 1, 2024), Ont. S.C.J. [Commercial List], Court File No. CV-23-00698107-00CL (CCAA Termination Order) at para 25.
[6] s 11.02(2)-(3), CCAA.

portion of the Closing Payment to the Monitor. The Applicant has satisfied the Monitor that it has sufficient cash to close the Transaction.[7]

12. The remaining cash to close is expected to be received by the Monitor in advance of February 27, 2026, the current end of the Stay Period. However, out of an abundance of caution, the Applicant is seeking an extension of the Stay Period to close the Transaction.

13. The Applicant submits that extending the Stay Period is warranted for the following reasons:

(a) Second Cup, with the oversight and control of the Monitor, is acting in good faith and with due diligence;

(b) an extension of the Stay Period will not prejudice or adversely affect any of the Company's creditors;

(c) the Monitor is not aware of any party opposed to the proposed extension of the Stay Period;

(d) no person will be unduly or unfairly prejudiced by the proposed extension of the Stay Period; and

(e) the proposed extension of the Stay Period will equip the Applicant and the Monitor with sufficient time to complete the Transaction.[8]

---

[7] Fifth Report at para 33.
[8] Fifth Golubovich Affidavit at para 25.

PART V - ORDER REQUESTED

14. For each of the foregoing reasons, the Applicant respectfully requests that this Honourable Court grant the Stay Extension Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 23rd day of February, 2026.

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 6600
Toronto, ON Canada M5H 3S1

Gavin H. Finlayson LSO# 44126D
Email: gfinlayson@millerthomson.com
Tel: 416.595.8619

Larry Ellis LSO# 49313K
Email: lellis@millerthomson.com
Tel: 416.595.8639

Matthew Cressatti LSO# 77944T
Email: mcressatti@millerthomson.com
Tel: 416-597-4311

Lawyers for the Applicant

SCHEDULE "A"
LIST OF AUTHORITIES

1. *Aleafia Health Inc. et al.*, (March 1, 2024), Ont. S.C.J. [Commercial List], Court File No. CV-23-00698107-00CL (CCAA Termination Order).

I certify that I am satisfied as to the authenticity of every authority.

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2)).

Date February 23, 2026

Gavin Finlayson, Larry Ellis and
Matthew Cressatti

SCHEDULE "B"
RELEVANT STATUTES

***Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended**

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.

Burden of proof on application

(3) The court shall not make the order unless

(a) the applicant satisfies the court that circumstances exist that make the order appropriate; and
(b) in the case of an order under subsection (2), the applicant also satisfied the court that the applicant has acted, and is acting, in good faith and with due diligence.

ARBAT CAPITAL GROUP LTD.
Applicant

and

THE SECOND CUP COFFEE COMPANY INC.
Respondent

Court File No. CV-25-00743485-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding Commenced at Toronto

FACTUM
(Returnable February 25, 2026)

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 6600
Toronto ON   M5H 3S1

Gavin H. Finlayson LSO# 44126D
Email: gfinlayson@millerthomson.com
Tel: 416.595.8619

Larry Ellis LSO# 49313K
Email: lellis@millerthomson.com
Tel: 416.595.8639

Matthew Cressatti LSO# 77944T
Email: mcressatti@millerthomson.com
Tel: 416-597-4311

Lawyers for the Applicant