SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00743485-00CL
CONFIDENTIAL

DATE: May 22, 2025

NO. ON LIST: 1

TITLE OF PROCEEDING:

Arbat Capital Group Ltd. Vs. The Second Cup Coffee Company Inc.

BEFORE: Justice Cavanagh

PARTICIPANT INFORMATION

For Plaintiff, Applicant:

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For Defendant, Respondent:

Name of Person Appearing	Name of Party	Contact Info
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Name of Person Appearing	Name of Party	Contact Info
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SUPPLEMENTARY ENDORSEMENT OF JUSTICE CAVANAGH:

[1] At the close of oral submissions, I indicated that I would grant the requested initial order in these *CCAA* proceedings and that I would issue a brief endorsement summarizing my reasons for doing so. These are my reasons.

[2] Defined terms in this endorsement have the meanings assigned to them in the Applicant's materials.

[3] Arbat Capital Group Ltd. (the "Applicant") brings this application and seeks an initial order pursuant to the *Companies' Creditors Arrangement Act* (the "*CCAA*") in respect of The Second Cup Coffee Company (the "Company"), and granting the Company protection from its creditors and certain ancillary relief including, among other things:

a. a declaration that the Company is a debtor company to which the *CCAA* applies;

b. appointing Grant Thornton Limited ("GTL") as Monitor of the business and financial affairs of the Company;

c. appointing Maxim Lojevsky, the current chairman of the Company's Board of Directors, as the Chief Restructuring Officer ("CRO) of the Company and approving an engagement letter between the proposed CRO and the Company;

d. staying, for an initial period of not more than 10 days, all proceedings and remedies taken, or that may be taken, in respect of the Company and its current, former, and future directors, employees, and representatives;

e. granting a charge (the "Administration Charge") in the maximum amount of $275,000 over the Company's assets, undertakings and properties of every nature and kind whatsoever, and wherever situated, including all proceeds thereof (the "Property"), as security for the payment of the fees and disbursements of GTL and its counsel, the CRO, and counsel for Arbat , in the priority set out in the Initial Order;

f. approving, authorizing and directing the Company to execute the draft DIP Term Sheet which establishes a charge (the "DIP Lender's Charge") over the Property in the maximum amount of $200,000 in favour of the Applicant , as the DIP Loan Lender, to be used as GTL and the CRO deemed necessary; and

g. granting a charge (the "Directors' Charge") in favour of the Company's directors, including Mr. Ragas, over the Property, in the amount of $100,000.

[4] The Company owns or controls the "Second Cup Café" brand and rights globally. The Company franchises these rights to franchisees. The franchisees operate approximately 170 cafés worldwide, in

around 20 different countries, none of which are located in Canada. Pursuant to the franchise agreements with the Company, the franchisees pay royalty fees to the Company and purchase certain supplies from the Company, including coffee beans and powders for flavoured drinks. The majority of the Company's revenues come from the purchase of the supplies and the royalty fees collected from franchisees. The Company has seven employees. Five of these employees are located in Canada, and two provide services from abroad. The employees are not subject to a collective agreement.

[5] The Applicant is the Company's largest creditor, being owed in excess of USD $3,715,190.61 and £832,745.20 on an unsecured basis as of March 31, 2025. The Applicant is also a 40% shareholder of the Company. The application is supported by Park Investors LLC ("Park") and Svetlana Bortsova ("Bortsova" and, together with the Applicant and Park, the "Majority Group"). The Company is indebted to Park in the amount of £724,558.89. The Majority Group holds 70% of the issued and outstanding shares of the Company.

[6] The Company is unable to pay the debts owing to the Applicant and the other members of the Majority Group, which have matured, come due, and been demanded upon. The Company has accumulated a super-priority debt in excess of $400,000 owing to the Canada Revenue Agency for failing to remit payroll source deductions for several years. The Company does not have sufficient liquidity to honour its payroll obligations that are due on May 23, 2025.

[7] The relief sought on this application is consented to by the Majority Group and also by the Company's current management and CEO, Demitrios (Jim) Ragas. Bank of Montreal, the Company's primary secured creditor, will not be primed by these proceedings nor by the proposed court-order charges, and has been advised of this *CCAA* filing.

[8] The facts in support of this application are set out in the affidavit of Alexey Golubovich sworn May 19, 2025.

[9] The CCAA applies in respect of a "debtor company" where the total claims against the debtor company exceed $5 million. The phrase "debtor company" is defined in the *CCAA* as "any company that: (a) is bankrupt or insolvent …".

[10] I am satisfied that the Company as a "debtor company" within the meaning of the *CCAA*.

[11] Upon the granting of an initial order under the *CCAA*, section 11.7 the *CCAA* requires that a trustee be appointed to monitor the debtor company's business and financial affairs.

[12] GTL is a trustee within the meaning of subsection 2 of the BIA and, subject to Court approval, has consented to act as Monitor in the *CCAA* proceedings.

[13] I am satisfied that GTL should be appointed by the Court as Monitor of the Company in these *CCAA* proceedings.

[14] The Applicant seeks the appointment of Maxim Lojevsky , the current chairman of the Board of Directors of the Company, as Chief Restructuring Officer ("CRO") of the Company pursuant to the terms and conditions outlined in an engagement letter (the "CRO Engagement"). The CRO Engagement provides that during the Initial Stay Period, and following the issuance by the Court of an Amended and Restated Initial Order, the CRO's role is proposed to be limited to review and reporting functions.

[15] Pursuant to section 11 of the *CCAA*, this Court has the jurisdiction to approve the engagement of a CRO. The proposed CRO has expertise in respect of the global coffee landscape. The proposed CRO would provide the Company with stable and independent management necessary to preserve the Company's going concern value during the *CCAA* proceedings. GTL supports the appointment of the proposed CRO, pursuant to the terms of the CRO Engagement, which includes that the CRO's compensation will consist of a 2% success fee to be paid upon a successful action or sale of the Company in a Court-supervised process.

[16] I am satisfied that the engagement of the CRO should be approved.

[17] Pursuant to section 11.02 of the *CCAA*, a court may grant a stay of proceedings upon an initial application under the *CCAA* for a period of no more than 10 days, provided the court is satisfied that circumstances exist that make the order appropriate. A stay of proceedings is appropriate where it provides a debtor company with "breathing room" while the debtor company seeks to restore solvency and emerge from the *CCAA* on a going concern basis. See *Target Canada Co.*, 2015 ONSC 303, at para. 8.

[18] I am satisfied that it is appropriate for this Court to grant the requested stay of proceedings in favour of the Company. Given the Company's current liquidity crisis and financial distress, a stay of proceedings will allow the Company to maintain the *status quo* and provide the breathing room required to provide the Board and the CRO with the information needed to better understand the Company's financial position, and to formulate either a plan of arrangement or a sale and investment solicitation process. The relief sought on this initial application is limited to the relief reasonably necessary for the debtor to continue to operate in the ordinary course.

[19] The Company seeks the Administration Charge on the Company's Property up to a maximum amount of $275,000 in favour of GTL as proposed Monitor, counsel to GTL, the CRO, and counsel to the Applicant (collectively, the "Professionals Group"), to secure payment of their professional fees and disbursements, incurred both before and after the commencement of the *CCAA* proceedings, through to the Comeback Hearing.

[20] Pursuant to section 11.52 of the *CCAA*, this Court has the jurisdiction to grant a super-priority charge for the fees and expenses of financial, legal and other advisors or experts. GTL, as proposed Monitor, and its counsel, counsel to the Applicant, and the CRO, have been extensively involved in planning and preparing this initial application under the *CCAA*. It is expected that each of these parties will have extensive involvement during the proposed *CCAA* proceedings, will continue to contribute to the Company's restructuring, and will ensure that there is no unnecessary duplication of roles among the parties. GTL, as proposed Monitor, supports the granting and the amount of the Administration Charge.

[21] I accept the submissions made on behalf of the Applicant in respect of the requested Administration Charge. I am satisfied that the Administration Charge should be granted.

[22] The Applicant is seeking approval of the DIP Term sheet and third-ranking DIP Lender's Charge over the Property, in favour of the Applicant, as DIP lender, to secure amounts advanced under the DIP Term Sheet.

[23] Section 11.2 (1) of the *CCAA* allows this Court to approve the DIP Term Sheet and the DIP Lender's Charge in an amount that the Court considers as appropriate, having regard to the Company's Cash Flow Forecast.

[24] I have considered the factors listed in section 11.2 (4) of the *CCAA*. I accept that absent approval of the proposed interim financing to be made available under the DIP Loan, the Company will not be able to meet its obligations as they become due, including payroll due on May 23, 2025. The Cash Flow Forecast indicates that the Company's business is in serious jeopardy of running out of liquidity. Advances under the DIP Loan will accrue interest at 9% per annum.

[25] GTL, as proposed Monitor, supports authorizing the Company to enter into the DIP Term Sheet and the granting of the DIP Charge.

[26] I am satisfied that the requested authorization in respect of the DIP Term Sheet should be given and that the DIP Charge should be granted.

[27] The Applicant seeks a Directors' Charge on the Property in favour of the Company's directors in the amount of $100,000. The Directors' Charge is intended to rank below BMO's security interest and the Administration Charge, and above the DIP Lender's Charge.

[28] I accept the Applicant's submission that to ensure stability of the Company's business during the *CCAA* proceedings, the continued participation of the Company's directors is required. The Company's D&O insurance policy has lapsed, resulting in a risk of personal exposure to the Board if the Directors' Charge is not granted. GTL, as proposed Monitor, supports the requested Directors' Charge.

[29] I am satisfied that the requested Directors' Charge should be granted.

[30] These are my reasons for making the Initial Order.

[31] The comeback hearing is scheduled for **May 29, 2025 at 10:00 a.m**. for two hours.