ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00743485-00CL **DATE: May 29, 2025**

NO. ON LIST: 3

TITLE OF PROCEEDING: ARBAT CAPITAL GROUP LTD. v. THE SECOND CUP COFFEE COMPANY INC.

BEFORE: JUSTICE CAVANAGH

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

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For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
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For Other:

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ENDORSEMENT OF JUSTICE CAVANAGH:

[1] Arbat Capital Group Ltd. ("Arbat" or the "Applicant") sought and obtained an initial order (the "Initial Order") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), in respect of The Second Cup Coffee Company ("Second Cup" or the "Company") on May 22, 2025.

[2] The Initial Order provides the Company with the relief needed to maintain the *status quo* prior to this comeback hearing.

[3] The Applicant now seeks an amended and restated initial order (the "ARIO") pursuant to the CCAA, among other things:

a. extending the stay of proceedings up to and including August 28, 2025 (the "Extended Stay Period");

b. approving an increase to the Administration Charge, to the maximum amount of $500,000;

c. approving an increase to the Directors' Charge, to the maximum amount of $220,000;

d. approving an amended and restated DIP Term Sheet dated May 29, 2025 between Arbat and the Company (the "A&R DIP Term Sheet"), and a corresponding increase in the borrowings under the DIP Loan and DIP Lender's Charge to a total of $900,000, plus interest, fees, and expenses, representing a $700,000 increase to the DIP Lender's Charge; and

e. authorizing the Company to pay certain critical pre-filing amounts owing to suppliers.

[4] The Applicant also seeks an order (the "Claims Identification Order") approving a proposed claims identification process (the "Claims Identification Process").

[5] The facts in support of this motion are set out in the Affidavit of Alexey Golubovich, sworn May 19, 2025 (the "First Golubovich Affidavit") and the Affidavit of Mr. Golubovich sworn May 27, 2025 (the "Second Golubovich Affidavit" and together with the First Golubovich Affidavit, the "Golubovich Affidavits").

Should the stay of proceedings be extended to August 28, 2025?

[6] The Applicants request an extension of the stay of proceedings until August 28, 2025. The Monitor supports the requested extension.

[7] I am satisfied that since the granting of the Initial Order, the Company has acted and continues to act in good faith and with due diligence to advance a restructuring. The Cash Flow Forecast shows sufficient liquidity during the proposed extended stay period to fund obligations and the costs of the CCAA proceedings. The extension of the stay period through August 28, 2025 will accommodate the anticipated timeline of the Claims Identification Process and will allow the parties and opportunity to pursue a successful process and a sale and investment solicitation process.

[8] I am satisfied that the requested extension should be granted.

Should the additional borrowing under the DIP Term Sheet be approved and the DIP Lender's Charge be increased?

[9] Pursuant to the Initial Order, the court approved the DIP Term Sheet and granted a DIP Lender's Charge in the amount of $200,000 (plus interest, fees, and expenses).

[10] Approval is now sought for the Company to borrow up to $900,000, plus interest, fees, and expenses, in aggregate, pursuant to the A&R DIP Term Sheet. A corresponding increase to the DIP Lender's Charge, to a total of $900,000 plus interest, fees, and expenses is also requested.

[11] The Monitor supports the requested relief.

[12] I have considered the factors in s. 11.2(4) and s. 11.2(1) of the CCAA. I am satisfied that the requested relief in this respect should be granted.

Should the increase of the Administration Charge be approved?

[13] The Administration Charge in the Initial Order was limited to the amount of professional fees and disbursements of the Monitor, counsel to the Monitor, and counsel to Arbat

("Professionals Group") incurred and estimated to be incurred to the end of the Initial Stay Period.

[14] The Applicant asks to increase the Administration Charge from $275,000 to $600,000 in order to appropriately protect the services to be provided by the Professionals Group during the proposed extended Stay Period.

[15] I am satisfied that approval to the increase of the Administration Charge should be given for the following reasons:

a. the beneficiaries of the Administration Charge have provided and will continue to provide needed legal and financial advice, and general oversight, throughout this CCAA proceeding;

b. each of the proposed beneficiaries of the Administration Charge is performing needed functions without the unwarranted duplication of roles;

c. the quantum of the proposed increase to the Administration Charge was determined in consultation with the Monitor and is based on the estimated fees of the Professionals Group from the date of the Comeback Hearing through to the end of the proposed extended Stay Period;

d. all secured creditors have been given notice of this CCAA proceeding and the Administration Charge; and

e. the Monitor and the DIP Lender are supportive of the increase in the Administration Charge.

Should the increase in the Directors' Charge be approved?

[16] Arbat asks to increase the Directors' Charge from $100,000 to $220,000, on the same relative priority as in the Initial Order, ranking below amounts owing to the Crown on account of statutory deemed trusts, BMO's security interest, the Administration Charge, and above the DIP Lender's Charge.

[17] The Monitor has determined that the increase to the Directors' Charge is necessary to account for the total costs associated with wages, salaries, applicable withholdings, benefits, and accrued vacation pay over the Extended Stay Period.

[18] I am satisfied that the requested increase should be approved.

Should authorization to make critical payments be approved?

[19] The Applicant seeks authorization to make certain pre-filing payments (the "Critical Supplier Payments") to certain suppliers (the "Critical Suppliers") that are critical to the Company's ongoing operations. The Applicant is not seeking a corresponding "critical suppliers charge".

[20] These Critical Supplier Payments would only be made with the Monitor's approval and consent.

[21] The Critical Supplier Payments primarily relate to critical payment for coffee beans, powders, and syrup which are essential to the Company's continued operations. The Applicant understands that the Critical Suppliers are refusing to provide further goods to the Company unless they are paid for certain pre-filing amounts owing.

[22] The Company's franchisees are required to purchase these supplies from the Company, meaning that the Company's failure to acquire these supplies would result in value destruction for the Company and its stakeholders.

[23] I am satisfied that authorization to make critical payments, as requested, should be approved.

Should the Claims Identification Process be Approved?

[24] The Claims Identification Order contemplates that all claims against the Company, with the exception of BMO's secured claim, will be addressed in the Claims Identification Process.

[25] The Claims Identification Process will allow the Company and its stakeholders to understand the universe of claims against the Company and create the framework for an efficient restructuring.

[26] The Claims Identification Order contemplates that all litigation against the Company, including the oppression application commenced by Levelen Corp ., Leonid Pekker, and Vera Pekker (and discussed in the First Golubovich Affidavit at paragraph 118) will be addressed in the Claims Identification Process.

[27] The Claims Identification Process also empowers the Monitor to treat any Claim as being unaffected by the Claims Identification Process if the Monitor deems doing so as being in the best interest of the Company's stakeholders.

[28] At the hearing, counsel for the applicants in the Levelen application appeared. They do not accept at this time that they must advance their claims through the claims process. I accept that his clients reserve the right to seek to schedule a motion for an order lifting the stay of proceedings to continue their application.

Disposition

[29] Orders to issue in forms of Orders signed by me today.