

COURT FILE NUMBER 2403 15089
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON



IN THE MATTER OF THE COMPANIES'
CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36, as amended

AND IN THE MATTER OF A PLAN OF
COMPROMISE OR ARRANGEMENT OF
FREEDOM CANNABIS INC.

DOCUMENT **AFFIDAVIT OF JOHNFRANK POTESTIO**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **SHAREK LOGAN & VAN LEENEN LLP**
Barristers & Solicitors
2100, Rice Howard Place
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Amber M. Poburan
Tel: (780) 413-3105
Email: apoburan@sharekco.com

FIRST AFFIDAVIT OF JOHNFRANK POTESTIO
Sworn October 2, 2024

I, JohnFrank Potestio, of the City of Edmonton, in the Province of Alberta, SWEAR AND SAY THAT:

1. I am the Chief Executive Officer ("**CEO**") and a director of Freedom Cannabis Inc. ("**Freedom**" or the "**Applicant**"). Freedom and its non-Applicant subsidiaries 2563138 Alberta Ltd. ("**256 Ltd**") and 2399751 Alberta Ltd. ("**239 Ltd**") are collectively referred to herein as the "**Freedom Group**".
2. I have been the CEO of Freedom since January of 2017. As such, I have personal knowledge of the matters to which I depose in this affidavit, except where I have obtained information from others. Where I have obtained information from others, I have stated the

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source of my information and, in all such cases, believe such information to be true. I am authorized to prepare this affidavit on behalf of Freedom.

3. Capitalized terms used herein and not otherwise defined have the meaning ascribed to them in my Affidavits sworn in this Action, including my affidavit sworn August 6, 2024 (the "**Initial Affidavit**") and August 13, 2024 (the "**Second Affidavit**").

RELIEF SOUGHT

4. This Affidavit is filed in support of Freedom's application for relief under the *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36, as amended (the "**CCAA**") extending the stay of proceedings established in respect of the Freedom Group, which expires October 11, 2024, to and including December 19, 2024 (the "**Stay Extension**").

BACKGROUND AND STATUS OF CCAA PROCEEDINGS

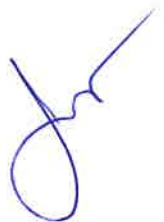
5. Among other things, the Initial Affidavit and Second Affidavit filed in these proceedings (the "**CCAA Proceedings**") describe: (i) the background with respect to the Freedom Group's assets, liabilities, and operations; and (ii) details concerning the relief sought in connection with the initial CCAA application, on August 8, 2024 (the "**Initial Application**") and the Comeback Application on August 18, 2024. The Initial Affidavit and Second Affidavit should be referred to for additional background about the Freedom Group and the events leading up to these CCAA Proceedings.
6. On August 8, 2024, the Honourable Justice Lema granted an initial order (the "**Initial Order**"), in respect of the Freedom Group, under the CCAA. On August 18, 2024, the Honourable Justice Nielson granted an Amended and Restated Initial Order (the "**ARIO**"). Among other things, the Initial Order and ARIO:
 - (a) established a stay of proceedings (the "**Stay of Proceedings**") against the Freedom Group until September 18, 2024 (the "**Second Stay Period**");
 - (b) appointed KPMG Inc. (the "**Monitor**") as the monitor of the Applicant;
 - (c) authorized the Applicant to borrow, under a credit facility in the maximum principal amount of \$3,000,000 (the "**DIP Facility**") from JL Legacy Ltd. (the "**DIP Lender**");



- (d) granted an Administration Charge, a Directors' Charge, and a DIP Lender's Charge (collectively, the "**Charges**") on the Property not exceeding the maximum amount of \$500,000 in the case of the Administration Charge, the maximum amount of \$1,500,000 in the case of the Director's Charge, and the maximum principal amount of \$1,500,000 in the case of the DIP Lender's Charge; and
 - (e) ordered that each of the Charges shall rank behind Encumbrances (as defined in the Initial Order) in favour of any Persons that had not been served with notice of the Application for the Initial Order and ARIO.
7. By way of Order granted September 18, the Honourable Justice Neilson granted an Order extending the Second Stay Period from September 18 to October 11 (the "**Third Stay Period**") and amending the ARIO in response to a request from CRA regarding the template wording in respect of remittances to be made at paragraph 7(a) and removing the *status quo* provision at paragraph 43 (the "**Extension Order**").

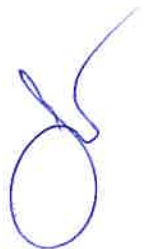
FREEDOM'S FACILITY LEASE

8. Pursuant to a Lease Agreement dated November 23, 2017 as between Freedom and Star Prebuilt Homes Ltd. (the "**Landlord**"), and attached as Exhibit "A" to my Affidavit of August 6, 2024 (the "**Lease**"), Freedom leases approximately 111,600 square feet of space at a facility located in Acheson, Alberta (the "**Facility**"). The Lease term is set to expire on May 31, 2033.
9. The Non-Applicant Stay Parties also operate their cannabis-related businesses out of the Facility. A portion of the Facility is further subleased by Freedom to an unrelated third party
10. At the date of the Initial Order, Freedom was in default under the Lease, and the total arrears as at August 1, 2024 were approximately \$2,396,456.
11. Between December of 2022 and April of 2024, Freedom made monthly lease payments in the amount of \$85,000, which was reduced to \$50,000 per month in April of 2024 and thereafter until the granting of the Initial Order.



12. After the date of the Initial Order, Freedom continued with its payments under the Lease. The Initial Order was granted August 8, 2024. Freedom paid to the Landlord the sum of \$38,709.68 for the pro-rated August rent, and \$50,000 for the September rent.
13. On or about the same time as the September 18 Stay Extension, Freedom was advised by the Landlord that it was taking issue with/wished to negotiate the rental payments to be made under the Lease. To my knowledge, and having been in attendance at all of the applications to date in this matter, the Landlord has not previously raised this issue before the Court.
14. Freedom is working in good faith with the Landlord to attempt to negotiate reasonable lease terms on which it can maintain its operations in the Facility and has devoted significant efforts during the Third Stay Period to attempting to negotiate terms with the Landlord.
15. Simultaneously, Freedom has and continues to explore other potential facilities proximate to the Facility from which it could conduct its operations, as-is, or with some operational modifications.
16. One such facility, owned by JLL, the DIP Lender in these proceedings, is fully licensed for cannabis cultivation and sale. This facility would enable Freedom to focus on the brokerage and packaging components of its operations, which are high-margin activities.
17. Another potential, alternative facility is an approximately 120,000 square foot facility, which is substantially comparable to the Facility presently leased by the Applicant. JLL is in the process of purchasing this facility. A lease of this second facility would enable Freedom to continue its operations on a *status quo* basis.
18. The issue of the quantum of rent payable by Freedom to the Landlord during the CCAA proceedings arose in the last two weeks, approximately. Although working diligently, Freedom has not yet had the opportunity to negotiate an agreement with the Landlord or commit to any alternative facility space for its operations while discussions with the Landlord are advancing.

APPLICANT'S ACITIVITES SINCE THE EXTENSION ORDER

A handwritten signature in blue ink, consisting of a large, stylized letter 'O' with a long, sweeping tail that curves upwards and to the right.

19. Following the issuance of the Extension Order, Freedom has continued its business operations in the ordinary course. Freedom has been working with the Monitor to stabilize operations and continue its restructuring initiatives as well as engaging with stakeholders.
20. Since the granting of the Extension Order, the Applicant, in consultation with and with the assistance of the Monitor, has been working in good faith and due diligence towards:
 - (a) communicating with, providing information to, and answering questions of, creditors, employees, and other stakeholders regarding the CCAA Proceedings;
 - (b) managing key relationships with customers and suppliers, and operating the business in accordance with the terms of the Initial Order and ARIO;
 - (c) working with and corresponding regularly with representatives of the Monitor regarding numerous issues in the CCAA proceedings, including the management of the Applicant's cash flow;
 - (d) finalizing and advancing the terms of a potential Stalking Horse Agreement (the "**Stalking Horse Agreement**") for the sale of the Applicant as a going concern;
 - (e) working with the Monitor and DIP Lender to develop a Sales Investment and Solicitation Process ("**SISP**");
 - (f) engaging in discussions with the DIP Lender about the Business and next steps in the CCAA proceedings; and
 - (g) corresponding and working with the Landlord to facilitate a resolution to the Lease dispute and source alternative operational facility space.
21. The Applicant has worked diligently and in good faith but requires additional time to resolve the Lease concerns raised of late by the Landlord (or if no resolution is possible,



to arrange alternative locations for the business to continue operations) and thereafter finalize the particulars of the SISP and Stalking Horse Agreement.

EXTENSION OF THE STAY OF PROCEEDINGS

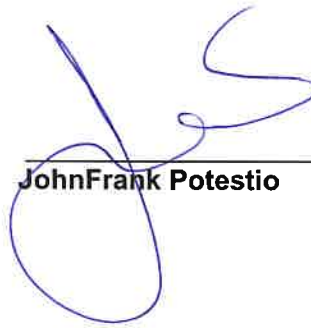
22. The extension of the Stay of Proceedings is necessary and appropriate in the circumstances to provide the Applicant the opportunity to maximize value for the benefit of their stakeholders through the CCAA Proceedings by resolving the Lease dispute and finalizing a SISP and Stalking Horse Agreement for the sale of Freedom as a going concern.
23. The Monitor and the Applicant require additional time to resolve the Lease issue and thereafter finalize a SISP and stalking horse offer that will allow Freedom to be marketed and sold as a going concern to derive the maximum value possible for all stakeholders.
24. The Applicant requires additional time primarily to work with the Landlord in good faith to resolve their concerns in respect of the Lease and the rental payments to be made going forward, or, alternatively, to find alternate facilities from which it can operate its business. Freedom has already sourced out a number of potential facilities for its operations which may be cheaper than the current Lease, which requires further investigation.
25. Freedom has acted, and is acting, in good faith and with due diligence in advancing these CCAA proceedings. I do not believe any creditor will suffer material prejudice as a result of the extension of the Stay of Proceedings. The Applicants' stakeholders will benefit from the extension of the Stay of Proceedings, and I understand the Monitor is supportive of this relief.
26. Freedom is seeking an extension of the Stay of Proceedings for a period of two months, or until the week of December 16 at which time Freedom expects to have resolved the Lease dispute or made alternative arrangements for an operating facility and is hopeful to advance a SISP and stalking horse process. I believe that an extension of two months is necessary in order to resolve these issues and not continue applications to extend the stay pending their resolution.
27. For the reasons set out herein, the Applicant respectfully requests that this Court grant the Stay Extension sought herein. I swear this Affidavit in support of the application for the relief set out above, and for no improper purpose.



28. This affidavit was sworn remotely using video technology and the deponent was not physically present before the commissioner but was linked with the commissioner utilizing video conferencing technology and the process described in the NP#2020-02, Notice to the Profession and Public Regarding Remote Commissioning of Affidavits for use in Civil and Family Proceedings During the COVID-19 Pandemic, dated March 25, 2020 was utilized.

SWORN BEFORE ME,

a lawyer in and for the Province of Alberta at)
the City of Edmonton, in the Province of)
Alberta, by two-way video conferencing with)
the deponent who was at Acheson, in the)
Province of Alberta, this 2nd day of October,)
2024 on the basis of evidence provided to)
me that enabled me to verify the deponent's)
identity and confirm the contents of the)
document being executed



A handwritten signature in blue ink, appearing to read "John Frank Potestio", is written over a horizontal line. The signature is stylized and includes a large loop at the bottom.

John Frank Potestio

**A Commissioner for Oaths in and for the
Province of Alberta**

Clerk's Stamp

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the deponent who was at Acheson, in the)
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2024 on the basis of evidence provided to)
me that enabled me to verify the deponent's)
identity and confirm the contents of the)
document being executed)

JohnFrank Potestio

**A Commissioner for Oaths in and for the
Province of Alberta**

JUSTIN A. WILLIAMS
Barrister & Solicitor